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# LAWS

OF THE

# STATE

OF

# NEW-YORK,

Paſſed by the Legiſlature of ſaid State, at their Tenth Seſſion.




NEW-YORK:

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BRITISH MUSEUM

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# LAWS

OF THE

# STATE OF NEW-YORK;

Paſſed at the Firſt Meeting of the Tenth Seſſion of the Legiſlature of the ſaid State.

## CHAP. I.

AN ACT *concerning the Rights of the Citizens of this State.* Paſſed the 26th of January, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly and it is hereby enacted and declared by the Authority of the ſame*: *Firſt*: That no authority ſhall, on any pretence whatſoever, be exerciſed over the Citizens of this State, but ſuch as is or ſhall be derived from and granted by the People of this State.

No authority to be exerciſed unleſs derived from the People.

*Second*: That no Citizen of this State ſhall be taken or impriſoned, or be diſſeiſed of his or her freehold or liberties, or free cuſtoms, or outlawed, or exiled, or condemned, or otherwiſe deſtroyed, but by lawful judgment of his or her Peers, or by due proceſs of law.

No Citizen to be impriſoned, condemned, &c. but by judgment of his Peers.

*Third*: That no Citizen of this State ſhall be taken or impriſoned for any offence, upon petition or ſuggeſtion, unleſs it be by indictment or preſentment of good and lawful men of the ſame neighbourhood, where ſuch deeds be done, in due manner, or by due proceſs of law.

No Citizen to be impriſoned upon petition, but by indictment or preſentment.

*Fourth*: That no perſon ſhall be put to anſwer without preſentment before Juſtices, or matter of record, or due proceſs of law, according to the law of the land, and if any thing be done to the contrary, it ſhall be void in law, and holden for error.

No perſon ſhall be put to anſwer but according to the laws of the land.

*Fifth*: That no perſon, of what eſtate or condition ſoever, ſhall be taken, or impriſoned, or diſinherited, or put to death without being brought to anſwer by due proceſs of law, and that no perſon ſhall be put out of his or her franchiſe or freehold, or loſe his or her life or limb, or goods and chattels, unleſs he or ſhe be duly brought to

No perſon to be impriſoned, put to death, &c. loſe his franchiſe, goods, or chattles, unleſs forejudged according to law.

anſwer, and be fore-judged of the ſame by due courſe of law; and if any thing be done contrary to the ſame, it ſhall be void in law and holden for none.

Juſtice ſhall not be denied, ſold or delayed to any one, and all writs ſhall iſſue freely.

*Sixth:* That neither juſtice nor right ſhall be ſold to any perſon, nor denied, nor deferred, and that writs and proceſs ſhall be granted freely and without delay, to all perſons requiring the ſame; and nothing from henceforth ſhall be paid or taken for any writ or proceſs, but the accuſtomed fees for writing, and for the ſeal of the ſame writ or proceſs; and all fines, duties and impoſitions whatſoever, heretofore taken or demanded, under what name or deſcription ſoever, for, or upon granting any writs, inqueſts, commiſſions, or proceſs to ſuitors in their cauſes, ſhall be, and hereby are aboliſhed.

No Citizen ſhall be fined without reaſonable cauſe, & ſuch fine ſhall not take away his contenement.

*Seventh:* That no Citizens of this State ſhall be fined or amerced without reaſonable cauſe, and ſuch fine or amerciament, ſhall always be according to the quantity of his or her treſpaſs or offence, and ſaving to him or her his or her contenement; that is to ſay, every freeholder ſaving his freehold, a merchant ſaving his merchandize, and a mechanic ſaving the implements of his trade.

Exceſſive bail not to be required.

*Eighth:* That exceſſive bail ought not to be required, nor exceſſive fines impoſed, nor cruel and unuſual puniſhments inflicted.

All elections to be free.

*Ninth:* That all elections ſhall be free, and that no perſon by force of arms, nor by malice or menacing, or otherwiſe, preſume to diſturb or hinder any Citizen of this State to make free election, upon pain of fine and impriſonment, and treble damages to the party grieved.

Citizens declared to have the right of petitioning.

*Tenth:* That it is the right of the Citizens of this State to petition the Perſon adminiſtering the Government of this State for the time being, or either Houſe of the Legiſlature, and all commitments and proſecutions for ſuch petitioning are illegal.

Freedom of ſpeech in the Legiſlature not to be queſtioned.

*Eleventh:* That the freedom of ſpeech and debates, and proceedings in the Senate and Aſſembly, ſhall not be impeached or queſtioned in any Court or place out of the Senate or Aſſembly.

No tax to be levied without the grant of the Legiſlature, and no citizen to be compelled to arm himſelf to go out of the State without the ſame grant.

*Twelfth:* That no tax, duty, aid, or impoſition whatſover, ſhall be taken or levied within this State, without the grant and aſſent of the People of this State, by their Repreſentatives in Senate and Aſſembly; and that no Citizen of this State ſhall be by any means compelled to contribute to any gift, loan, tax, or other like charge, not ſet, laid, or impoſed by the Legiſlature of this State; and further, that no Citizen of this State ſhall be conſtrained to arm himſelf, or to go out of this State, or to find ſoldiers, or men of arms, either horſemen or footmen, if it be not by aſſent and grant of the People of this State, by their Repreſentatives in Senate and Aſſembly.

No ſoldiers to be billetted on citizens without their conſent, on any pretence whatever.

*Thirteenth:* That by the laws and cuſtoms of this State, the Citizens and Inhabitants thereof cannot be compelled, againſt their wills, to receive ſoldiers into their houſes, and to ſojourn them there, and therefore no Officer military or civil, nor any other perſon whatſoever, ſhall, from henceforth, preſume to place, quarter, or billet any ſoldier or ſoldiers, upon any Citizen or Inhabitant of this State, of any degree or profeſſion whatever, without his or her conſent, and that it ſhall and may be lawful for every ſuch Citizen and Inhabitant to refuſe to ſojourn or quarter any ſoldier or ſoldiers, notwithſtanding any command, order, warrant, or billeting whatever.

## CHAP. II.

AN ACT *for taking away and aboliſhing all Right and Claim of Purveyance within this State.* Paſſed the 26th of January, 1787.

No ſums of money to be raiſed in regard of proviſion or purveyance for the chief magiſtrate, or any other officer.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame*; That no ſum or ſums of money, or other thing, ſhall be taken, raiſed, taxed, rated, impoſed, paid or levied for, or in regard of any proviſion, carriages or purveyance for the Chief Magiſtrate, or Officer, or any other Officer, or Officers for the time being, of this State,

State, or of the United-States, or for any person or persons whomsoever, and that no person or persons, by any warrant, commission, or authority, under the Great Seal or otherwise, by colour of buying or making provision or purveyance for the Chief Magistrate or Officer, or any other Officer or Officers for the time being, of this State, or of the United-States, or for his, their, or any of their household, or for any person or persons whomsoever, shall take any timber, fuel, cattle, corn, grain, malt, hay, straw, victuals, cart, carriage, or other thing whatsoever, of any of the Citizens of this State, without the free and full consent of the owner or owners thereof, had and obtained without menace or inforcement, nor shall summon, warn, take, use, or require any of the said Citizens to furnish or find any horses, oxen, or other cattle, carts, waggons, wains, or other carriages for the use of the Chief Magistrate or Officer, or of any other Officer or Officers for the time being, of this State, or of the United-States, or of any other person or persons whomsoever, for the carrying of his or their, or any of their goods, without such full and free consent as aforesaid. *And further*, that no pre-emption shall be allowed or claimed in the behalf of the Chief Magistrate or Officer, or of any other Officer or Officers for the time being, of this State, or of the United-States, or of any other person or persons whomsoever, in market or out of market, but that it shall be forever hereafter free to all and every of the Citizens of this State, to sell, dispose or employ his and her goods to any other person or persons, at his or her pleasure, any pretence of making provision or purveyance of victuals, carriages, or other things for the Chief Magistrate or Officer, or other Officer or Officers for the time being, of this State or of the United-States, or for any other person or persons whomsoever, or any pretence of pre-emption in his, their, or any, or either of their behalfs notwithstanding; and if any person or persons, shall at any time hereafter, make provision or purveyance for the Chief Magistrate or Officer, or any other Officer or Officers for the time being, of this State or of the United-States, or for any other person or persons whomsoever, or impress, or take any such carriages, or other things aforesaid, on any pretence, or colour of any warrant aforesaid, under the Great Seal, or otherwise contrary to the intent of this act, it shall be lawful for the Justices of the Peace, or any one or more of them dwelling near, and the Constables of such town or place where such occasion shall happen, at the request of the party grieved, and they are hereby enjoined to commit, or cause to be committed, the party or parties so doing and offending to Gaol till the next General Sessions, there to be indicted and proceeded against for the same, and that the Officer and Inhabitants of the said town or place where such offence shall happen, shall be assistant therein; and moreover the party grieved shall have his or her action or actions against such offender or offenders, and therein recover his or her treble damages and treble costs; in which action no aid, prayer, privilege, protection, imparlance, injunction, or order of restraint, shall be granted or allowed; and if any person or persons shall (after notice given that the action depending is grounded upon this statute) cause or procure any action at the common law, grounded on this statute to be delayed or stayed before judgment, by colour or means of any order, injunction, power, warrant, or authority, save only of the Court where such action shall be brought and depending, or after judgment had upon such action, shall cause or procure execution of such judgement to be stayed or delayed by colour or means of any order, injunction, warrant, power, or authority, save only by writ of error or attaint, or order of such Court where such writ of error or attaint shall be depending, that then the person so offending, shall forfeit to the People of this State, all his or her goods and chattels, and the issues and profits of his or her lands and tenements during life.

No person by warrant or other authority whatever, under colour of purveyance for Chief Magistrate, to take any timber, cattle, &c. from any Citizen without his consent.

No pre emption to be allowed in or out of market to Chief Magistrate or other Officer.

And if any person under colour of warrant or commission shall make such purveyance, Justices may commit him to prison for trial.

The party grieved shall have his action and recover treble damages and costs.

Persons staying an action grounded on this statute, otherwise than is herein directed, to forfeit all his goods, chattels, &c.

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## CHAP. III.

AN ACT *for the recovery of Damages in Writs of Aſſiſe and real Actions.* Paſſed the 26th of January, 1787.

In all aſſiſes, aſſiſes of diſſeiſen and writs of entry, damages how to be recovered.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That in all aſſiſes if judgment be given for the plaintiff, he or ſhe ſhall recover his or her damages; and in all aſſiſes of novel diſſeiſin and writs of entry, the demandants if they recover the tenements demanded ſhall alſo recover their damages againſt the diſſeiſors: And if the diſſeiſors alien the land and have not whereof the damages may be levied, they to whoſe hands ſuch tenements ſhall come ſhall be charged with the damages, ſo that every one ſhall anſwer for his or her time: *And further,* that in all writs and actions poſſeſſory, whereby lands or tenements are demanded damages ſhall be recovered as aforeſaid.

## CHAP. IV.

AN ACT *concerning Dower.* Paſſed the 26th of January, 1787.

A widow after her huſband's death to give nothing for her dower, and how long ſhe may remain in her huſband's chief houſe, and one third of his lands to be aſſigned for her dower.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That a widow, after the death of her huſband ſhall give nothing for her dower or her inheritance which her huſband and ſhe held at the day of the death of her huſband, and ſhe ſhall tarry in the chief houſe of her huſband forty days after the death of her huſband, or until her dower be aſſigned to her, and ſhe ſhall have in the mean time her reaſonable ſuſtenance out of the eſtate of her huſband, and for her dower ſhall be aſſigned unto her the third part of all the lands of her huſband which were his at any time during the coverture.

Widows deforced of their dower ſhall recover damages.

II. *And be it further enacted by the Authority aforeſaid,* That in caſe widows after the death of their huſbands be deforced of their dowers and cannot have their dowers or quarantine without ſuit, whoſoever deforce them of their dowers or quarantine of the lands whereof their huſbands died or ſhall die, ſeized and be convicted of ſuch wrongful deforcement ſhall yield damages to the ſame widows, That is to ſay, the value of the whole dower to them belonging, from the time of the death of their huſbands unto the day that the ſaid widows ſhall recover ſeiſin of their dowers by judgment of the Court, and the deforcers ſhall nevertheleſs be amerced.

A writ of dower *unde nihil habet* not to be abated but for a certain cauſe.

III. *And be it further enacted by the Authority aforeſaid,* That in a writ of dower *unde nihil habet*, the writ ſhall not abate by the exception of the tenant, becauſe ſhe hath received her dower of another perſon before her writ purchaſed, unleſs he can ſhew that ſhe hath received part of her dower of himſelf and in the ſame town before the writ purchaſed.

A huſband giving up lands to his adverſary by covin, ſhall not bar his wife of her dower.

IV. *And be it further enacted by the Authority aforeſaid,* That in caſe where the huſband being impleaded for land, giveth up the land demanded, unto his adverſary by covin, after the death of the huſband his wife ſhall recover her dower of the ſame land if ſhe demand it by writ, and in caſe where the huſband loſeth the land in demand by default and his wife after his death demandeth her dower, ſhe ſhall be heard, and if it be alledged againſt her that her huſband loſt the land whereof dower is demanded by judgment, whereby ſhe ought not to have dower and then it be enquired by what judgment and it be found that it was by default, whereunto the tenant muſt anſwer, then it behoveth the tenant to anſwer further, and ſhew that he had and hath right in the ſame land, according to the form of the writ that the tenant before purchaſed againſt the huſband; and if he can ſhew that the huſband of ſuch wife had no right in the lands, nor any other but he that holdeth them, the tenant ſhall go quit and the wife ſhall not recover her dower therein, which thing if he cannot ſhew, the wife ſhall recover her dower.

His loſing lands by default, where this ſhall affect his wife's dower.

V.

V. *And be it further enacted by the Authority aforeſaid*, That where a woman, not having a right to demand dower, and the heir being within age, ſhall purchaſe a writ of dower againſt a guardian, and the guardian ſhall endow the woman by favour, or make default, or by colluſion defend the plea faintly, whereby the woman is awarded her dower in prejudice of the heir, in all ſuch caſes, the heir, when he comes to full age, ſhall have an action to demand the ſeiſin of his anceſtor againſt ſuch a woman like as he ſhould have againſt any other deforcer. But the woman ſhall have her exception ſaved againſt the demandant, to ſhew that ſhe had right to her dower, which if ſhe can ſhew ſhe ſhall go quit and retain her dower and the heir ſhall be amerced, and if ſhe cannot ſhew that ſhe had right to her dower, the heir ſhall recover his demand; and in like manner a woman ſhall be aided if the heir or any other do implead her for her dower, or if ſhe loſe her dower by default, in which caſe the default ſhall not be ſo prejudicial to her but that ſhe ſhall recover her dower if ſhe have right thereto, and ſhe ſhall have a writ in this form: "Command A that juſtly and without delay he render to B who "was the wife of F, ſo much land with the appurtenances in C, which ſhe claims to "be her reaſonable dower," or "of her reaſonable dower," and of which the aforeſaid A deforceth her, and to this writ the tenant ſhall have his exception to ſhew that ſhe had no right to be endowed, which if he can verify, he ſhall go quit, if not the woman ſhall recover the land whereof ſhe was before endowed.

Where the heir ſhall recover againſt a woman endowed by the colluſion, &c. of the guardian.

The woman ſhewing right to dower ſhall retain it and the heir be amerced.

The woman's right to dower not ſhewn, the heir to recover his demand.

How dower, tho' loſt by default ſhall be recovered by writ.

To which the tenant in dower ſhall have exception.

VI. *And be it further enacted by the Authority aforeſaid*, That a writ of admeaſurement of dower ſhall be from henceforth granted to a guardian, and the heir when he cometh to full age ſhall not be barred by the ſuit of ſuch guardian, that ſueth againſt the tenant in dower feignedly and by colluſion, but that he may admeaſure the dower after as it ought to be admeaſured by law; and in the writ of admeaſurement of dower as well as in the writ of admeaſurement of paſture when it is come to the great diſtreſs, day ſhall be given within which two Counties may be holden, at which open proclamation ſhall be made that the defendant ſhall come at the day contained in the writ to anſwer to the plaintiff, at which day if he come, the plea ſhall paſs between them, and if he do not come and the proclamation be teſtified and returned by the Sheriff in manner aforeſaid, upon his default admeaſurement ſhall be made; *And further*, That hereafter no Sheriff ſhall hold pleas of admeaſurement of dower or of paſture, but all ſuch writs ſhall be made returnable before the Juſtices of the Supreme Court, or in the Courts of Common Pleas in the reſpective counties.

Writ of admeaſurement of dower to be granted to a guardian where the heir ſhall not be bound by the ſuit of ſuch guardian from admeaſuring the dower again.

No Sheriff to hold pleas of admeaſurement of dower, &c.

VII. *And be it further enacted by the Authority aforeſaid*, That if a wife willingly leave her huſband, and go away and continue with her adulterer and be thereof convicted, ſhe ſhall be barred forever of action to demand her dower that ſhe might have had of her huſband's lands, unleſs her huſband willingly be reconciled to her and permit her to dwell with him, in which caſe ſhe ſhall be reſtored to her action of dower.

A woman who leaves her huſband and lives with her adulterer, barred of her dower, unleſs her huſband be reconciled to her.

VIII. *And be it further enacted by the Authority aforeſaid*, That where any man hath purchaſed or hath an eſtate made and conveyed of and in any lands, tenements, or hereditaments, unto him and to his wife, and to the heirs of the huſband or wife, or to the huſband and to his wife, and to the heirs of their two bodies begotten, or to the heirs of one of their bodies begotten, or to the huſband and to his wife for the term of their lives, or for the term of the life of the ſaid wife, or where any ſuch eſtate or purchaſe of any lands, tenements, or hereditaments, hath been or hereafter ſhall be made to any huſband and to his wife in manner and form above-expreſſed, or to any other perſon or perſons, and to their heirs and aſſigns to the uſe and behoof of the ſaid huſband and wife, or to the uſe of the wife as is before rehearſed, for the jointure of the wife, that then and in every ſuch caſe, every married woman having ſuch jointure made or hereafter to be made, ſhall not claim or have title to have any dower of the reſidue of the lands, tenements, or hereditaments that at any time were her ſaid huſband's by whom ſhe hath any ſuch jointure, nor ſhall demand nor claim her dower of or againſt them that have the lands and inheritances of her ſaid huſband; but if any ſuch woman be lawfully expulſed or evicted from her ſaid jointure, or from any part thereof without any fraud or covin by lawful entry or action, or by diſcontinuance of her huſband, then every ſuch woman ſhall be endowed of as much of the reſidue of her huſband's

Every married woman who hath a jointure ſhall have no title to dower.

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lands, tenements, or hereditaments whereof ſhe was before dowable, as the ſame lands and tenements from which ſhe ſhall be ſo evicted and expulſed, ſhall amount or extend unto.

Any woman after marriage, having lands aſſured to her in jointure, and ſurviving her huſband, may make her election of ſuch jointure or her dower.

IX. *And be it further enacted by the Authority aforeſaid*, That if any wife have or hereafter ſhall have any lands, tenements, or hereditaments given or aſſured unto her after marriage, for the term of her life or otherwiſe in jointure, and the ſaid wife after that ſhall ſurvive her ſame huſband in whoſe time the ſaid jointure was made or aſſured unto her, that then the ſame wife ſo ſurviving ſhall or may at her liberty after the death of her ſaid huſband, refuſe to have and take the lands, tenements and hereditaments, ſo to her given, appointed or aſſured during the coverture for term of her life, or otherwiſe in jointure, and thereupon ſhall or may have, aſk, demand and take her dower by writ of dower or otherwiſe, according to the common law, of and in all ſuch lands, tenements and hereditaments as her huſband was and ſtood ſeized of any eſtate of inheritance at any time during the coverture.

No woman to be deprived of her dower on attainder or conviction of her huſband.

X. *And be it further enacted by the Authority aforeſaid*, That the wife of every perſon who ſhall hereafter be attainted, convicted, or out-lawed of any treaſon, petty treaſon, miſpriſion of treaſon, murder or felony whatſoever, ſhall be endowable and enabled if ſhe ſurvive her huſband, to demand, have and enjoy her dower in like manner and form as if her huſband had not been attainted, convicted, or out-lawed.

Any woman who is raviſhed and afterwards conſents to the raviſher, both he and ſhe ſhall be diſabled to hold any inheritance, dower, or jointure, &c. and their next of blood ſhall have title to enter upon them, in ſuch inheritance, dower or jointure.

XI. *And be it further enacted by the Authority aforeſaid*, That whereſoever and whenſoever any woman ſhall be raviſhed, and after ſuch rape do conſent to her raviſher, as well the raviſher as ſhe that is raviſhed, and every of them ſhall from thenceforth be diſabled and by the ſame deed be unable to have or challenge any inheritance, dower, jointure, joint feoffment, or joint purchaſe, after the death of their huſbands and anceſtors, and that in this caſe the next of blood of the raviſher, or of her who is raviſhed, to whom ſuch inheritance, dower, jointure, joint feoffment, or joint purchaſe, ought to revert, remain or fall after the death of the raviſher or of her that is raviſhed ſhall have title immediately, that is to ſay, after the rape to enter upon the raviſher or her that is raviſhed, and their aſſigns and tenants, in the ſame inheritance, dower, jointure, joint feoffment, or joint purchaſe, and to hold the ſame in ſtate of inheritance.

## CHAP. V.

AN ACT *for preventing delays by Eſſoins and Protections, and for aboliſhing Trials of Iſſues by Wager of Law.* Paſſed the 30th of January, 1787.

No eſſoin or protection to be allowed.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame*, That no eſſoin or protection ſhall hereafter be allowed in any ſuit whatſoever.

Trials by wager of law aboliſhed except in caſe of non-ſummons.

II. *And be it further enacted by the Authority aforeſaid*, That trials by wager of law ſhall be and hereby are aboliſhed in all caſes, except in the caſe of non-ſummons, and that no perſon ſhall hereafter be permitted to wage his or her law in any caſe except that of non-ſummons in real actions.

## CHAP. VI.

AN ACT *for preventing Waſte.* Paſſed the 30th of January, 1787.

No guardian to ſuffer or make any waſte of the inheritance of his ward.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame*, That no guardian ſhall make or ſuffer any waſte, ſale, or deſtruction of the inheritace of his ward or of thoſe things that he hath, or may have in his cuſtody, but ſhall ſafely keep the ſame inheritance to the uſe of the ſaid heir, and keep up and ſuſtain the houſes, gardens and other things pertaining to the ſame lands by and with the iſſues and profits thereof, and ſhall deliver the ſame to his ward when he cometh to his full age, in as good order and condition

condition at leaſt as ſuch guardian received the ſame, and ſhall anſwer to ſuch heir for the reſidue of the iſſues and profits of the ſame inheritance by a lawful account, ſaving to the ſame guardians their reaſonable charges and expences. And if any guardian ſhall make or ſuffer any waſte, ſale, or deſtruction of the inheritance of his ward, he ſhall loſe the ſame cuſtody and ſhall recompence the ward thrice ſo much as the damages ſhall be taxed at by the Jury.

If he does the ward to be recompenced by treble damages.

II. *And be it further enacted by the Authority aforeſaid*, That no tenant for life or years, or for any other term, ſhall, during the term, make or ſuffer any waſte, ſale, or deſtruction of houſes, gardens, orchards, lands or woods, or any thing belonging to the tenements demiſed without ſpecial licence in writing, making mention that he may do it.

No tenant for life or any other term, to make or ſuffer waſte.

III. *And be it further enacted by the Authority aforeſaid*, That from henceforth any perſon may have a writ of waſte out of the Chancery againſt him or her who holdeth by courteſy or otherwiſe for term of life or for term of years, or other term, or a woman in dower as well as againſt guardians. And whoever ſhall be convicted of waſte, ſhall loſe the thing or place waſted, and ſhall recompence thrice ſo much as the damages ſhall be taxed at by the Jury.

Writ of waſte may be had out of Chancery Court, any one convicted thereof to loſe the thing waſted together with treble damages.

IV. *And be it further enacted by the Authority aforeſaid*, That in all actions of waſte, if the defendant come not at the return of the original writ, he ſhall be attached, and if he come not at the return of the attachment, he ſhall be diſtrained, and if he come not after the diſtreſs, or if he come and afterwards make default, the Sheriff ſhall be commanded, that in his proper perſon he take with him twelve good and lawful men of his County, and go to the place waſted, and enquire of the waſte done, and return an inqueſt, and after the inqueſt returned the plaintiff ſhall have judgment to recover the place waſted and treble the damages found by the inqueſt.

In all actions of waſte where the defendant does not appear, Sheriff & Jury go to the place waſted and enquire into the ſame.

V. *And be it further enacted by the Authority aforeſaid*, That where two or more do or ſhall hold any lands, tenements, woods, fiſhing, or other ſuch thing in common as parceners, tenants in common, or joint tenants, wherein none knoweth his or her ſeveral part, and ſome or one of them do waſte againſt the mind of the other, an action ſhall lie by a writ of waſte, and when it ſhall come unto judgment, the defendant ſhall chuſe either to take his or her part in a place certain by the Sheriff with a Jury to be aſſigned, or elſe he or ſhe ſhall grant to take nothing from thenceforth in the ſame lands, tenements, woods, fiſhings, or other ſuch thing, but as his or her partners will take, and if he or ſhe chuſe to take his or her part in a place certain the ſame ſhall be aſſigned him or her in the part waſted as it was before he or ſhe committed the waſte. But if the defendant ſhall not chuſe to take his or her part in a place certain, or if the waſte exceed his or her proportion, the plaintiff ſhall recover againſt ſuch defendant ſuch damages as ſhall be found by the Jury or Inqueſt.

Lands held in common, and waſte committed by one of them, how the others are to proceed

VI. *And be it further enacted by the Authority aforeſaid*, That every heir in whoſe ward ſoever he or ſhe be and whether he or ſhe be in ward or not, and as well within age as of full age, ſhall have his or her recovery by a writ of waſte for waſte and deſtruction made in lands and tenements of his or her inheritance, as well in the time of his or her anceſtor or anceſtors, as at any other time after the inheritance deſcended or come to him or her and ſhall be anſwered unto therefore, and he or ſhe ſhall recover the tenements waſted and treble damages as aforeſaid.

Every heir may have a writ of waſte for waſte committed during the life of his anceſtor, as well as after the inheritance deſcended to himſelf.

VII. *And be it further enacted by the Authority aforeſaid*, That where any tenant for term of life or for another's life, or for term of years, or any other term, hath or ſhall let or grant his or her eſtate in the lands and tenements demiſed to or held by him or her to any perſon or perſons and ſhall ſtill continue to occupy the ſame lands and tenements, or take the profits thereof and ſhall commit or ſuffer waſte and deſtruction in the ſame lands and tenements, to the diſinheritance of him, her, or them in the reverſion, he, ſhe, or they, to whom the reverſion doth or ſhall appertain, may in ſuch caſe have and maintain a writ of waſte againſt the ſaid tenant for term of life, or of another's life, or for term of years, or other term, and recover againſt him or her the place waſted, and his, her, or their treble damages for the waſte done, if the ſaid tenant was puniſhable, of or for waſte before he or ſhe leaſed or granted over his or her eſtate as aforeſaid, but not otherwiſe.

If a tenant for life or any other term, ſhall let his right in the lands to another and ſuffer any waſte the perſon to whom the reverſion belongs may ſtill have his writ of waſte againſt ſaid tenant.

CHAP.

## CHAP. VII.

AN ACT *to alter the place of holding Elections in Caughnawaga Diſtrict, in the County of Montgomery.* Paſſed the 30th of January, 1787.

WHEREAS the place aſſigned by law for holding the annual Town-Meetings and Elections in Caughnawaga Diſtrict, is inconvenient for the People of the ſaid Diſtrict; for remedy whereof

Town-meetings and elections in Caughnawaga Diſtrict where to be held.

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That the annual town-meetings and elections in the ſaid diſtrict ſhall in future be held at the Court-houſe in Johns-Town, in the diſtrict aforeſaid, inſtead of the place heretofore aſſigned by law for that purpoſe.

## CHAP. VIII.

AN ACT *concerning Juſtices of the Peace.* Paſſed the 30th of January, 1787.

Juſtices of the Peace appointed in every county.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That in every county of this State good and lawful men of the beſt reputation, and who be no maintainers of evil or barretors, ſhall be aſſigned by Commiſſion under the Great Seal, from time to time, according to the Conſtitution of this State, Juſtices to keep the peace in the ſame Counties reſpectively, who ſhall jointly and ſeverally have power to keep and cauſe to be kept all laws and ordinances made or to be made for the good of the peace and for the conſervation of the ſame, and for the quiet rule and government of the Citizens and Inhabitants of this State, in all and every the articles thereof, in the ſame counties reſpectively, as well within liberties as without, according to the force, form, and effect of the ſame laws and ordinances, and to chaſtiſe and puniſh all perſons offending againſt the form of thoſe laws and ordinances or any of them, in the ſaid reſpective counties in ſuch manner as according to the form of thoſe laws and ordinances ſhall be fit to be done, and to cauſe to come before them, or any, or either of them, all thoſe perſons who ſhall break the peace, or have uſed, or ſhall uſe threats to any one or more of the Citizens or Inhabitants of this State concerning their bodies, or the firing of then houſes or barns, to find ſufficient ſecurity for the peace, or their good behaviour towards the People and Inhabitants of this State, and if they ſhall refuſe to find ſuch ſecurity, then them in priſon until they ſhall find ſuch ſecurity, to cauſe to be ſafely kept: And to cauſe to come before them, or any, or either of them, all thoſe who be not of good fame where they ſhall be found, to find ſufficient ſecurity for their good behaviour towards the People and Inhabitants of this State, and if they refuſe to find ſuch ſecurity, then them in priſon until they ſhall find ſuch ſecurity to cauſe to be ſafely kept. *And further,* that the ſame Juſtices, or any three or more of them, ſhall have power in the ſame reſpective Counties, to enquire by the oath of good and lawful men of the ſame Counties reſpectively, by whom the truth may be the better known, of all, and all manner of larcenies, thefts, treſpaſſes, foreſtallings, regratings, engroſſings, and extortions whatſoever, and of all and ſingular other crimes and offences, of which Juſtices of the Peace may or ought lawfully to enquire by whomſoever, and after what manner ſoever, in the ſaid reſpective Counties done or perpetrated, or which ſhall happen to be there done or attempted: *And alſo,* of all thoſe who in the ſaid reſpective Counties have gone or rode, or hereafter ſhall preſume to go or ride in companies with armed force againſt the peace, to the diſturbance of the Citizens and Inhabitants of this State: *And alſo,* of all thoſe who have there lain in wait or hereafter ſhall preſume to lay wait to maim, or cut, or kill any Citizen or Inhabitant of this State: *And alſo,* of all victuallers and innholders, and all and ſingular other perſons who have offended, or attempted to offend, or hereafter ſhall preſume or attempt to offend, in the ſame reſpective Counties, in the abuſe of weights or meaſures,

Their duty and powers.

or

or in the ſale of victuals againſt the form of the laws and ordinances of this State, or any of them, made for the common good of this State, and the Citizens and Inhabitants thereof. *And alſo*, of all Sheriffs, Bailiffs, Conſtables, Gaolers, and other officers whatſoever, who in the execution of their offices about the premiſes, or any of them, have unduly demeaned themſelves, or hereafter ſhall preſume to behave themſelves unduly, or have been, or hereafter ſhall happen to be careleſs, remiſs, or negligent in the ſame reſpective counties, and of all and ſingular articles and circumſtances, and all other things whatſoever that concern the premiſes, or any of them, by whomſoever, and after what manner ſoever, in the ſaid reſpective counties done or perpetrated, or which ſhall hereafter there happen to be done or attempted, in what manner ſoever, and to inſpect all indictments whatſoever ſo before them or any of them taken or to be taken, or before others late Juſtices of the Peace, in the ſame reſpective counties made or taken and not determined, and to make and continue proceſſes thereupon againſt all and ſingular the perſons ſo indicted, or who before them ſhall happen to be indicted until they be taken, ſurrender themſelves or be outlawed, and to hear and determine all and ſingular the larcenies, thefts, treſpaſſes, foreſtallings, regratings, engroſſings, extortions, unlawful aſſemblies, indictments aforeſaid, and all and ſingular other the premiſes, according to the laws, ordinances and ſtatutes of this State, as in the like caſe it has been accuſtomed or ought to be done: And the ſame offenders, and every of them, for their offences, by fines, ranſoms, amerciaments, forfeitures, and other means, according to the law and cuſtom of this State and the form of the ordinances and ſtatutes aforeſaid, it has been accuſtomed or ought to be done to chaſtiſe and puniſh.

Sheriffs on certain days made known to them by Juſtices to ſummon good & lawful men of the county to appear before ſaid Juſtices to enquire, &c.

II. *And be it further enacted by the Authority aforeſaid*, That the reſpective Sheriffs of each and every of the reſpective counties of this State, at certain days and places, which the Juſtices of the Peace of the ſame counties reſpectively, or any three or more of them, ſhall make known to them, ſhall cauſe to come before the ſame Juſtices of the Peace of the ſame counties reſpectively, ſo many ſuch good and lawful men of their bailiwick or counties reſpectively, as well within liberties as without, by whom the truth of the matter in the premiſes, ſhall be the better known and enquired into.

Juſtices, when & where to hold their General Seſſions.

III. *And be it further enacted by the Authority aforeſaid*, That the ſaid Juſtices of the Peace, or any three or more of them, ſhall hold and keep their General Seſſions in their reſpective counties, at ſuch times and places as they are or ſhall be authoriſed and required to do by the laws and ordinances of this State, and oftner if need be. *And further*, that no ſuit, indictment, plea, proceſs or proceeding, before Juſtices of the Peace in any County ſhall be diſcontinued by any new Commiſſion of the Peace to be made, but the ſame ſuits, indictments, pleas, proceſs, and proceedings ſhall ſtand in their full force; and the Juſtices in ſuch new Commiſſion ſo aſſigned after that they ſhall have the records of the ſame pleas and proceſs before them, ſhall have power and authority to continue the ſame pleas and proceſs, and the ſame pleas and proceſs, and all that ſhall depend upon them, to hear and finally determine, as the other Juſtices might and ought to have done, of and in the ſame, if no new commiſſion had been made.

No ſuit, indictment, plea, &c. to be diſcontinued by a new commiſſion of the peace.

IV. *And be it further enacted by the Authority aforeſaid*, That all fines to be ſet and impoſed by Juſtices of the Peace, or any or either of them, for a treſpaſs, or any other offence done or committed, or to be done or committed by any perſon, ſhall be reaſonable and juſt, having regard to the treſpaſs or offence, and the cauſes for which they be ſet and impoſed.

All fines impoſed by Juſtices to be reaſonable.

V. *And be it further enacted by the Authority aforeſaid*, That every Juſtice of the Peace who hath taken or ſhall take any recognizance for the keeping of the peace or good behaviour, ſhall certify, ſend or bring the ſame recognizance to the next General Seſſions of the Peace, where he is or hath been Juſtice, that the party ſo bound may be called, and if the party ſo bound make default, the ſame default ſhall be then there recorded, and the ſame recognizance with the record of the default ſhall be ſent and certified into the exchequer.

Every Juſtice taking a recognizance ſhall certify the ſame to the next General Seſſions of the Peace.

VI. *And be it further enacted by the Authority aforeſaid*, That all and every Juſtice and Juſtices of the Peace, and every Mayor, Recorder, and Alderman having the authority of and acting as a Juſtice of the Peace, before whom any perſon ſhall be brought for any treaſon, miſpriſion of treaſon, murder, manſlaughter or felony, or for ſuſpicion thereof,

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thereof, before he or they ſhall commit or ſend ſuch priſoner to ward, ſhall take the examination of ſuch priſoner, and information of thoſe that bring him or her, of the fact and circumſtances thereof, and the ſame, or as much thereof as ſhall be material to prove the offence, ſhall be put in writing within two days after the ſaid examination, and ſhall certify the ſame in writing, ſubſcribed or ſigned by him or them with his or their own hands, at the next Court in which ſuch priſoner is or ought to be tried for the ſame offence. *And further*, The ſaid Juſtices, Mayors, Recorders and Aldermen, and every of them are hereby authorized and required to bind all ſuch by recognizance as do declare any thing material to prove the ſaid treaſon, miſpriſion of treaſon, murder, manſlaughter, or felony, againſt ſuch priſoner to appear in the Supreme Court the term following, or at the next Seſſions of Oyer and Terminer or general Gaol delivery, of or for the county, city, or place where the offence was committed, or in ſuch other Court where the ſaid offence is properly cognizable, then and there to give evidence againſt the party, and ſhall certify the ſaid recognizance and recognizances taken before them, together with the ſaid examinations into the ſaid Court where ſuch witneſſes are bound to appear on the firſt day of the term or ſeſſions of the ſame Court: And in caſe any Juſtice of the Peace, Mayor, Recorder, or Alderman ſhall refuſe or neglect to take ſuch examination as aforeſaid, or to certify the ſame as aforeſaid, or ſhall refuſe or neglect to bind the witneſſes to appear as aforeſaid, or to certify the recognizances by him taken as aforeſaid, the Judges and Juſtices of the Court wherein ſuch witneſſes ought to be bound to appear, and to which ſuch examinations and recognizances ought to be certified upon due proof thereof by examination before them, ſhall for every ſuch offence or neglect ſet ſuch a fine upon every of the ſaid Juſtices, Mayors, Recorders and Aldermen, as the ſame Judges and Juſtices of ſuch Court ſhall think meet, and eſtreat the ſame as other fines and amerciaments aſſeſſed before ſuch Judges and Juſtices ought to be eſtreated: *And whereas*, in many caſes where the Juſtices of the Peace are by law empowered to give or make judgments or orders, great expences have been occaſioned by reaſon that ſuch judgments or orders have, on appeals to the Juſtices of the Peace at their reſpective General Seſſions been quaſhed or ſet aſide upon exceptions or objections to the form or forms of the proceedings, without hearing or examining the truth and merits of the matters in queſtion. *For remedy whereof*:

To bind all perſons by recognizance who declare anything againſt the perſons ſuſpected of treaſon, to give evidence againſt them.

Juſtices neglecting to take ſuch examinations, recognizances, &c. to be fined by the Court.

Recital.

VI. *Be it further enacted by the Authority aforeſaid*, That upon all appeals to be made to the Juſtices of the Peace at their reſpective General Seſſions, to be holden for any county, city, or place in this State, againſt judgments or orders given or made by any Juſtices of the Peace as aforeſaid, ſuch Juſtices ſo aſſembled at any ſuch Seſſions, ſhall and they are hereby required from time to time within their reſpective juriſdictions upon all and every ſuch appeals ſo made to them, to cauſe any defect or defects of form that ſhall be found in any ſuch original judgments or orders to be rectified and amended, without any coſt or charge to the parties concerned, and after ſuch amendment made ſhall proceed to hear, examine and conſider the truth and merits of all matters concerning ſuch original judgments or orders, and likewiſe to examine all witneſſes upon oath, and hear all other proofs relating thereto, and to make ſuch determinations thereupon, as by law they ſhould or ought to have done, in caſe there had not been ſuch defect or want of form in the original proceeding.

Appeals againſt the judgment of Juſtices of the Peace, the Juſtices in their General Seſſions to amend any defect of form, &c.

To hear and determine the ſame as though there had been no ſuch defect of form.

VII. *And be it further enacted by the Authority aforeſaid*, That in caſe any perſon againſt whom a warrant ſhall be iſſued by any Juſtices, or Juſtice of the Peace of any county, city or place in this State, for any offence there committed or done, ſhall eſcape, go into, reſide, or be in any other county, city, or place, out of the juriſdiction of the Juſtices or Juſtice granting ſuch warrant as aforeſaid, it ſhall and may be lawful for any Juſtice or Juſtices of the Peace of the county, city or place where ſuch perſon ſhall eſcape, go into, reſide, or be, and ſuch Juſtice or Juſtices is and are hereby required, upon proof being made upon oath of the hand writing of the Juſtice or Juſtices granting ſuch warrant, to indorſe his or their name or names on ſuch warrant, which ſhall be a ſufficient authority to the perſon or perſons bringing ſuch warrant, and to all other perſons to whom ſuch warrant was originally directed, to execute ſuch warrant in ſuch other county, city, or place, out of the juriſdiction of the Juſtice

Magiſtrates duty in caſe of eſcapes, &c.

or

or Juſtices granting ſuch warrant as aforeſaid, and to apprehend and carry ſuch offender or offenders before the Juſtice who indorſed ſuch warrant, or ſome other Juſtice or Juſtices of ſuch other county, city, or place where ſuch warrant was endorſed, and in caſe the offence for which ſuch offender ſhall be ſo apprehended as aforeſaid, ſhall be bailable in law, and ſuch offender ſhall be willing and ready to give bail for his or her appearance at the next General Gaol Delivery, or next General Seſſions of the Peace, to be held in and for the county, city, or place where the offence was committed, ſuch Juſtice or Juſtices of ſuch other county, city, or place, before whom ſuch offender or offenders ſhall be brought, ſhall and may take bail of ſuch offender or offenders for his, her, or their appearance at the next General Gaol Delivery, or at the next General Seſſions of the Peace, to be held in and for the county, city, or place where ſuch offence was committed, in the ſame manner as the Juſtices of the Peace of the proper county, city, or place, and the Juſtice or Juſtices of ſuch other county, city, or place, ſo taking bail as aforeſaid, ſhall deliver the recognizance, together with the examination or confeſſion of ſuch offender or offenders, and all other proceedings relating thereto, to the Conſtable or other perſon or perſons ſo apprehending ſuch offender or offenders as aforeſaid, who are hereby required to receive the ſame, and to deliver over ſuch recognizance, examination, or other proceedings to the Clerk of the Court of General Gaol Delivery, or Clerk of the Peace of the county, city, or place where ſuch offender or offenders is or are required to appear by virtue of ſuch recognizance; and ſuch recognizance, examination, or confeſſion, ſhall be as good and effectual in law to all intents and purpoſes, and of the ſame force and validity, as if the ſame had been entered into, taken or acknowledged before a Juſtice or Juſtices of the Peace in and for the proper county, city, or place where the offence was committed, and the ſame proceedings ſhall be had thereon; and in caſe ſuch Conſtable or other perſon to whom ſuch recognizance, examination or confeſſion, or other proceedings ſhall be ſo delivered as aforeſaid, ſhall refuſe or neglect to deliver over the ſame to the Clerk of the Court of General Gaol Delivery, or Clerk of the Peace of the county, city, or place where ſuch offender is required to appear, by virtue of ſuch recognizance, ſuch Conſtable or other perſon ſhall forfeit the ſum of ten pounds, to be recovered againſt him by action of debt, bill, plaint or information, in any Court of Record by any perſon or perſons, who will proſecute or ſue for the ſame: And in caſe the offence for which ſuch offender or offenders ſhall be apprehended and taken in any other county, city, or place, ſhall not be bailable in law, or ſuch offender or offenders ſhall not give bail for his or her appearance at the next General Gaol Delivery, or next General Seſſions of the Peace, to be held in and for the county, city, or place where the offence was committed, to the ſatisfaction of the Juſtice before whom ſuch offender or offenders ſhall be brought, in ſuch other county, city, or place, then and in that caſe the Conſtable or other perſon or perſons ſo apprehending ſuch offender or offenders, ſhall carry and convey ſuch offender or offenders before one of the Juſtices of the Peace of the proper county, city or place where ſuch offence was committed, there to be dealt with according to law. And further, that no action of treſpaſs, falſe impriſonment, information or indictment, or other action, ſhall be brought, ſued, commenced, or proſecuted by any perſon or perſons whatſoever againſt the Juſtice or Juſtices who ſhall indorſe ſuch warrant, for or by reaſon of his or their indorſing ſuch warrant; but ſuch perſon or perſons ſhall be at liberty to bring or proſecute his, her, or their action or ſuit, againſt the Juſtice or Juſtices who originally granted ſuch warrant in the ſame manner as ſuch perſon or perſons might have done in caſe this clauſe of this act had not been made.

The proceedings to be ſent to the Clerk of the Peace.

Delinquent Conſtables, &c. fined.

Where no action of treſpaſs, falſe impriſonment, &c. ſhall be brought againſt a Juſtice of the Peace.

VIII. *And be it further enacted by the Authority aforeſaid*, That the Juſtices of the Peace ſhall ſend their indictments before the Juſtices aſſigned or impowered to deliver the gaols in their reſpective cities and counties.

Indictments to be ſent to the Juſtices aſſigned to deliver gaols.

IX. *And be it further enacted by the Authority aforeſaid*, That the Mayors, Recorders, and Aldermen of the cities of New-York and Albany, and each of them ſhall reſpectively have the like powers in the ſaid reſpective cities, as the Juſtices of the Peace have in their reſpective counties by virtue of this act.

What Magiſtrates to have the powers of a Juſtice of the Peace.

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## CHAP. IX.

AN ACT *declaring what Proceſs may be iſſued in certain Perſonal Actions, and for regulating Outlawries.* Paſſed the 3d of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That in all actions of account, debt, detinue, annuity, covenant, conſpiracy, and of the caſe and in actions of *replevin* after a *capias in withernam* is returned, that the perſon againſt whom it is iſſued has no goods, the like proceſs may hereafter be had and uſed as in actions of treſpaſs done with force and arms, and in theſe, as well as in all other caſes where proceſs iſſues for taking the body, if it be returned that the perſon againſt whom ſuch proceſs iſſued is not found, ſuch proceſs may be purſued to the exigent and outlawry thereupon.

Manner of proceeding in actions where the perſon has no goods.

II. *And be it further enacted by the Authority aforeſaid,* That each and every Sheriff ſhall reſpectively in his county, hold a court either in perſon or by his ſufficient deputy, on every firſt and third Monday in every month, at the court-houſe in his county, to be called his County Court, for the purpoſe of demanding perſons upon exigents and pronouncing outlawries thereupon; and that it ſhall not be neceſſary for the Coroners of the county or any of them to attend at ſuch court, or to give judgment of outlawry; but it ſhall be ſufficient for the Sheriff or his Deputy to give the judgment of outlawry, and to return the ſame upon the exigent without ſaying by the judgment of the Coroners.

Time, place, and manner of holding Sheriffs courts, and of pronouncing outlawries.

III. *And be it further enacted by the Authority aforeſaid,* That in every original writ of actions perſonal, and in all appeals, indictments and informations, and in which the exigent ſhall be awarded, to the names of the defendants in ſuch writs, original appeals, indictments, and informations, additions ſhall be made of their eſtate or degree or myſtery, and of the towns or places and counties of which they were or be, or in which they be or were converſant; and if by proceſs upon the ſaid original writ, appeal, indictments, or informations, in which the ſaid additions be omitted, any outlawries be pronounced, they ſhall be void, fruſtrate, and holden for none; and that before any outlawries pronounced, the ſaid writs, appeals, indictments, and informations ſhall be abated by the exception of the party wherein the ſame the ſaid additions be omitted: *Provided always,* That although the ſaid writs of actions perſonal be not according to the records and deeds by the ſurpluſage of the additions aforeſaid, they ſhall not be abated for that cauſe.

In original writs, &c. defendant's addition to be made.

Proviſo.

IV. *And be it further enacted by the Authority aforeſaid,* That no perſon charged as acceſſary in any indictment or appeal ſhall be outlawed until the principal be attainted; but ſuch indictments and appeals may be nevertheleſs proſecuted; but the exigent againſt the acceſſary ſhall remain until the principal be attainted by outlawry or otherwiſe.

No acceſſary to be outlawed, until the principal be attainted.

V. *And be it further enacted by the Authority aforeſaid,* That after any perſon is or ſhall be indicted or appealed of treaſon or felony, it ſhall be commanded to the Sheriff to take the body of the perſon ſo indicted or appealed by a writ or precept called a *capias*, and if the Sheriff return on the ſame writ or precept that the body is not found, another writ or precept of *capias* ſhall be immediately made returnable at a certain day, not leſs than three months after the date of the ſame writ; and in the ſame writ ſhall be compriſed that the Sheriff ſhall cauſe the goods and chattels of the perſon indicted or appealed to be ſeized and ſafely kept, until the day of the return of the writ or precept; and if the Sheriff return that the body is not found, and the perſon indicted or appealed cometh not, the exigent ſhall be awarded and the goods and chattels ſo ſeized ſhall be forfeited to the people of this State. But if the perſon indicted or appealed come and yield himſelf, or be taken by the Sheriff or other Officer, before the return of the ſecond *capias*, then the goods and chattels ſhall be ſaved.

Sheriff's duty in caſes of indictment, for treaſon, &c.

*And*

VII. *And be it further enacted by the Authority aforeſaid*, That upon every indictment and appeal againſt any citizen of this State, dwelling in other counties than where ſuch indictment or appeal is or ſhall be taken, of any treaſon or felony after the firſt writ of *capias* returned another writ of *capias* ſhall be awarded, directed to the Sheriff of the county where the perſon indicted or appealed is or ſhall be ſuppoſed to be converſant by the ſame indictment or appeal, returnable in the ſame court, or before the ſame Juſtices before whom the indictment or appeal is or ſhall be taken, at a certain day not leſs than three months after the date of the ſame writ, by which writ, the Sheriff ſhall be commanded to take the body of the perſon ſo indicted or appealed, if he or ſhe ſhall be found in his bailiwick; and if he or ſhe ſhall not be found in his bailiwick, that the ſaid Sheriff ſhall make proclamation in two of his county courts before the return of the ſame writ, that the perſon ſo indicted or appealed ſhall appear at the ſaid court, or before the ſaid Juſtices where he or ſhe is, or ſhall be indicted or appealed at the day of the return of the ſame writ, to anſwer to the people of the State of New-York, or the party of the treaſon, felony, or treſpaſs whereof he or ſhe is or ſhall be ſo indicted or appealed, and after ſuch writ of *capias* ſo ſerved and returned, if he or ſhe ſo indicted or appealed come not at the day of the return of the ſame writ of *capias*, the exigent ſhall be awarded againſt ſuch perſon ſo indicted or appealed. And where any ſuch indictment or appeal is or ſhall be taken before Juſtices aſſigned to hear and determine, or before Juſtices of the peace, or before any other having power to take ſuch indictments or appeals, and ſhall be removed or delivered into the Supreme Court by *certiorari* or otherwiſe, no exigent ſhall be awarded by the ſame Supreme Court until ſuch writ of *capias* with proclamation, ſhall be awarded and ſerved and returned as aforeſaid. And if any exigent ſhall be awarded upon any ſuch indictment or appeal before ſuch *capias* with proclamation be awarded ſerved and returned as aforeſaid, and outlawry be upon that pronounced, as well the exigent ſo awarded and the outlawry thereupon, and every of them ſhall be holden for none and void; and the party againſt whom ſuch exigent ſhall be awarded or outlawry pronounced, contrary to the form aforeſaid, ſhall not be endamaged thereby, nor put to loſs of his or her life, or goods or chattels lands or tenements,

Mode of proceſs upon an indictment for treaſon, &c. againſt a perſon reſiding in another county.

VIII. *And be it further enacted by the Authority aforeſaid*, That in every action perſonal, and in all caſes of indictments and informations for treſpaſſes or miſdemeanors, wherein or whereupon any writ of exigent ſhall be awarded out of any court, one writ of proclamation ſhall be awarded and made out of the ſame court, having day of teſt and return, as the ſaid writ of exigent ſhall have, directed and delivered of record to the Sheriff of the county where the Defendant, at the time of the exigent ſo awarded, ſhall be dwelling: Which writ of proclamation ſhall contain the effect of the ſame action, indictment, or information. And the Sheriff of the county unto whom any ſuch writ of proclamation ſhall be directed, ſhall make, or cauſe to be made, three proclamations, in the form following, that is to ſay, One of the ſame proclamations in his open County Court, and one other of the ſame proclamations at the General Seſſions of the Peace in thoſe parts where the party Defendant, at the time of the exigent awarded, ſhall be dwelling, and one other of the ſame proclamations, one month at leaſt before the fifth demand by virtue of the ſaid writ of exigent, at or near to the moſt uſual door of the church of the town or place where the Defendant ſhall be dwelling at the time of awarding the ſaid exigent; and if there be more than one church in ſuch town, then at or near the moſt uſual door of the church neareſt the Defendant's dwelling; and if there be no church in ſuch town, then at or near the moſt uſual door of the church in the next town neareſt the defendant's dwelling, and upon a Sunday, immediately after divine ſervice and ſermon, if any there be; (and if any ſuch Defendant ſhall, at the time of awarding the exigent, reſide out of this State, then ſuch writ of proclamation ſhall be directed to and executed by the Sheriff to whom the exigent ſhall be directed, and in ſuch caſe ſuch writ of proclamation ſhall be publiſhed in one or more of the newſpapers to be printed in the city of New-York, for twelve ſeveral weeks before the return of the exigent.) And that all outlawries had and pronounced, and no writs of proclamations awarded and returned, according to the form of this ſtatute, ſhall be utterly

Mode of proceſs in perſonal actions for treſpaſſes, &c. wherein a writ of exigent ſhall be awarded.

31. Eliz. c. 3

except this clause included in a pa- ceding this

terly void and of none effect, and may be avoided by averment, without ſuing out any writ of error.

How outlawries may be reverſed, & writs of error thereon allowed.

31. Eliz. c. 3.

IX. *And be it further enacted by the Authority aforeſaid*, That before any reverſal of any outlawry be had by plea or otherwiſe, and before any allowance of any writ in error upon any outlawry, the Defendant and Defendants in the original action or ſuit ſhall put in bail, if bail was required in ſuch original action or ſuit, not only to appear and anſwer to the Plaintiff in the former ſuit, in a new action to be commenced by the ſaid Plaintiff, for the cauſe mentioned in the firſt action, but alſo to ſatisfy the condemnation, if the Plaintiff ſhall begin ſuch ſuit before the end of two terms next after the allowing of the writ of error, or otherwiſe avoiding of the ſaid outlawry.

No perſon required perſonally to attend in court to reverſe an outlawry, unleſs it be for treaſon or felony.

4 & 5 W. & M. c. 18.

X. *And be it further enacted by the Authority aforeſaid*, That no perſon or perſons whomſoever, who are or ſhall be outlawed in any court for any cauſe, matter, or thing whatſoever, other than for treaſon or felony, ſhall be compelled to come in perſon into court, or appear in perſon in court, to reverſe ſuch outlawry, but ſhall or may appear by Attorney, and reverſe ſuch outlawry, without bail, in all caſes, except where ſpecial bail ſhall be ordered by the court.

In caſes of outlawry, what is to be done for the plaintiff's damages.

XI. *And be it further enacted by the Authority aforeſaid*, That in all caſes where an outlawry ſhall be had before judgment in any perſonal action, the Plaintiff at whoſe ſuit the ſame outlawry ſhall be had, may ſuggeſt and ſet forth his cauſe of action upon the roll of the exigent, after the return of the ſame, upon which a writ ſhall be iſſued to the Sheriff of the county where the action ſhall be brought, to ſummon a Jury to appear in the ſame court where the action ſhall be brought, if the ſame ſhall be brought in any other court than the Supreme Court; and if the ſame action ſhall be brought in the Supreme Court, then before the Juſtices or Juſtice of the Supreme Court, at the next Circuit Court to be held in the county where ſuch action ſhall be brought, to inquire into the truth of the matters charged by the Plaintiff, and to aſſeſs the damages that the Plaintiff ſhall have ſuſtained thereby. And if the action ſhall be in the Supreme Court, it ſhall be commanded in the ſame writ to the Juſtices or Juſtice who ſhall hold ſuch Circuit Court, that he or they ſhall make a return thereof to the Supreme Court, at the time in ſuch writ mentioned; and upon the return of ſuch writ, if the action ſhall be in the Supreme Court, or upon the execution of ſuch writ, if the action ſhall be in any other court, execution ſhall be awarded for the ſum found by the Jury, with coſts, both upon the outlawry and proſecution of the ſaid inquiry.

*And further*, That upon the execution of every ſuch writ of inquiry, the Plaintiff ſhall prove his cauſe of action and debt or damages, in the ſame manner as if the Defendant had appeared and traverſed the ſame.

The payment of ſuch damages, &c. to ſtop the operation of ſuch outlawry.

XII. *And be it further enacted by the Authority aforeſaid*, That upon the payment of the ſum ſo found upon ſuch inquiry as aforeſaid, with coſts as aforeſaid, or where any outlawry ſhall be had after judgment in any perſonal action, upon payment of the debt or damages and coſts adjudged, or upon the ſame being levied by any execution, or brought into court by the Defendant, ſuch outlawry and judgment ſhall be conſidered as ſatisfied, and ſhall ceaſe to have any further or other operation; and an entry ſhall in ſuch caſe be made on the roll of the exigent, after the return of the ſame; and after the execution or return of the inquiry, where ſuch inquiry as aforeſaid ſhall be made, that the debt or damages and coſts are paid or levied, or brought into court: and that the Defendant, as to the outlawry, or judgment and outlawry, and all execution thereupon, go without day.

*And further*, That no outlawry in any perſonal action ſhall work any diſability or forfeiture whatſoever, in favor of any other perſon than the Plaintiff at whoſe ſuit it ſhall be had.

CHAP.

## CHAP. X.

AN ACT *concerning the Courts of Common Pleas and General Seſſions of the Peace.*
Paſſed the 5th of February, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That the Court of General Seſſions of the Peace in and for the city and county of New-York, ſhall be held on the firſt Tueſdays in February, May, Auguſt, and November, in every year, each of which ſeſſions of the peace may laſt, continue, and be held until the ſeveral Tueſdays next following, incluſive. Times and place of holding Courts, &c.

That the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Albany, ſhall be held at the city hall of the city of Albany, on the third Tueſday in January, and the firſt Tueſdays in June and October in every year, each of which courts may laſt, continue, and be held until the ſeveral Tueſdays next following, incluſive. In Albany county.

That the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Suffolk, ſhall be held at the court houſe in the ſame county on the laſt Tueſday in March and the firſt Tueſday in October in every year, and may continue and be held until the ſeveral Saturdays next following incluſive. In Suffolk County.

That the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Queens, ſhall be held at the court houſe in the ſame county, on the firſt Mondays in February and June, and the ſecond Monday in November, in every year, and may continue and be held until the ſeveral Saturdays next following incluſive. In Queen's County.

That the Courts of Common Pleas and General Seſſions of the Peace in and for the county of Kings, ſhall be held at the court houſe in the ſame county on the third Tueſdays in April and October in every year, and may continue and be held until the ſeveral Saturdays next following incluſive. In King's County.

That the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Richmond, ſhall be held at the court houſe in the ſame county, on the fourth Monday in January, the firſt Monday in May, and the fourth Monday in September in every year, and may continue and be held until the ſeveral Saturdays next following incluſive. In Richmond County.

That the Courts of Common Pleas, and General Seſſions of the Peace, in and for the County of Weſt-Cheſter, ſhall be held on the fourth Mondays in January, May, and September in every year, and ſhall be held alternately at the court houſe at the White Plains, and at the court houſe at Bedford, and may continue and be held until the ſeveral Saturdays next following incluſive. In Weſt-Cheſter County.

That the Courts of Common Pleas and General Seſſions of the Peace in and for the county of Orange, ſhall be held on the ſecond Tueſdays in February, May, and October in every year, and ſhall be held alternately at the court houſe in the new city, and at the court houſe in Goſhen, and may continue and be held until the ſeveral Saturdays next following incluſive. In Orange County

That the Courts of General Seſſions of the Peace in and for the County of Ulſter, ſhall be held at the court houſe in the ſame county on the firſt Tueſday in May, and on the third Tueſday in September in every year, and may continue and be held until the ſeveral Saturdays next following incluſive; and that the Court of Common Pleas, in and for the ſaid county of Ulſter, ſhall be held at the court houſe in the ſame county, on the firſt Tueſdays in January, May, and July, and the third Tueſday in September in every year, and may continue and be held until the ſeveral Saturdays next following incluſive. In Dutcheſs County. In Ulſter County.

That the Court of Common Pleas and General Seſſions of the Peace in and for the county of Dutcheſs, ſhall be held at the court houſe in the ſame county on third Tueſdays in January and May, and the ſecond Tueſday in October in every year, and may continue and be held until the ſeveral Saturdays next following incluſive.

That

In Columbia County.

That the Courts of Common Pleas and General Seſſions of the Peace in and for the county of Columbia, ſhall be held at the court houſe at Claverack on the ſecond Tueſdays in January, May, and September in every year, and may continue and be held until the ſeveral Saturdays next following incluſive.

In Waſhington County.

That the Courts of Common Pleas and General Seſſions of the Peace, in and for the County of Waſhington, ſhall be held at Salem, in the ſame county, on the ſecond Tueſday in February, the laſt Tueſday in May, and the firſt Tueſday in November in every year, and may continue and be held until the ſeveral Saturdays next following, incluſive.

In Montgomery County.

And that the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Montgomery, ſhall be held at the court houſe in the ſame county, on the ſecond Tueſdays in February, June, and October in every year, and may continue and be held until the ſeveral Saturdays next following, incluſive. *Provided always,*

Power given to Juſtices to adjourn the courts.

II. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the Judges and Juſtices of the ſaid reſpective Courts of Common Pleas and General Seſſions of the Peace reſpectively, when they conceive the due adminiſtration of Juſtice will admit thereof, to adjourn the ſaid courts reſpectively to the next ſucceeding term on any day preceding the laſt day to which the power of holding ſuch of the ſaid courts is hereby extended as aforeſaid; and that all proceſs which ſhall be iſſued out of the ſaid courts reſpectively, ſhall always bear teſt the day on which the ſaid reſpective courts ſhall have adjourned.

Mayors court terms for New-York and Albany extended to three days.

III. *And be it further enacted by the Authority aforeſaid,* That the terms of the Mayors Courts of the cities of New-York and Albany, ſhall be, and hereby are lengthened and extended to three days.

*Provided nevertheleſs,* That when the buſineſs of any of the ſaid reſpective courts ſhall be completed, the ſaid courts may adjourn to the next term, without ſitting until the end of the term. and that all proceſs iſſuing out of the ſaid reſpective courts, ſhall always be teſted the day on which the court ſhall have adjourned.

Powers of ſaid courts declared.

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid Courts of Common Pleas and Mayors Courts, ſhall be and hereby are reſpectively authorized and empowered to hear, try, and determine according to law, all actions real, perſonal, and mixed, ſuits, quarrels, controverſies, and differences ariſing within the ſeveral and reſpective cities and counties for which the ſame are or ſhall be held.

Who and what number are required to hold courts.

V. *And be it further enacted by the authority aforeſaid,* That the Mayor, Recorder, and Aldermen of the city of New-York, or any three of them, of whom the Mayor or Recorder always to be one, ſhall have power to hold ſuch courts of General Seſſions of the Peace and Mayor's Courts in the ſaid city, any charter, law, or uſage to the contrary notwithſtanding. And that the Judges and Aſſiſtant Juſtices of each of the other counties in this State, or any three of them, of whom one of the Judges of the Court of Common Pleas always to be one, ſhall have power to hold ſuch Courts of Common Pleas in their reſpective counties, any law or uſage to the contrary notwithſtanding.

Affidavits taken before a Judge of the Supreme Court, may be read in any of ſaid courts.

VI. *And be it further enacted by the authority aforeſaid,* That all affidavits to be taken before any Juſtice of the Supreme Court, in or concerning any cauſe, matter, or thing depending, or hereafter to be depending, or in any wiſe concerning any proceedings to be had in any of the ſaid Courts of Common Pleas, or Courts of General Seſſions of the Peace, or Mayor's Courts, ſhall or may be read and made uſe of in the ſaid courts reſpectively, in the ſame manner, and ſhall be of the ſame force and effect, to all intents and purpoſes, as if they were or had been taken before one of the Judges or Juſtices of the ſaid Courts of Common Pleas, Courts of General Seſſions of the Peace, or Mayors Courts reſpectively.

Recital.

*And whereas* an opinion hath prevailed, that no diminution can be alledged of records removed by writ or writs of error, from any of the Mayor's Courts, or courts of Common Pleas in the ſeveral cities and counties of this State, and that therefore not only the declaration, pleadings, verdict, and judgment, but the plaint, proceſs, continuances, and all other proceedings in each cauſe in the ſaid reſpective courts, muſt be ſet forth ſpecially and particularly in the record of the judgment therein, which occaſions a very conſiderable expence to the parties, and is productive of many inconveniences: For remedy whereof,

*Be*

VII. *Be it further enacted by the authority aforeſaid*, That in all records of judgments hereafter to be made up and entered in any of the ſaid courts, in any cauſe now depending, or hereafter to be brought therein, it ſhall be ſufficient, immediately after the caption thereof, to enter the declaration, without ſetting forth or entering upon the ſame record, the plaint or proceſs againſt the defendant or defendants; and then if judgment is not entered, or the defendant or defendants ſhall not plead at the ſame term of which the declaration is filed, an imparlance ſhall be entered to the term when judgment is entered, or the plea of the defendant or defendants ſhall come in, without entering the continuances from term to term; and when an iſſue ſhall be joined to be tried by a Jury, if the ſame is not tried at the next term after the joining thereof, inſtead of entering all the continuances from term to term until the trial, it ſhall be ſufficient to enter the continuance upon the record, in the following form, "and hereupon the proceſs "thereof is continued between the parties aforeſaid, of the plea aforeſaid, in this ſame "court, before the" Mayor, Recorder, and Aldermen of the city of New-York, or Albany, or Hudſon, or "Judges and Aſſiſtant Juſtices of the ſame court," as the caſe may be, until the term when the ſame iſſue ſhall be tried, or ſome neceſſary rule or order made concerning ſuch cauſe, or the trial thereof, if any ſuch ſhall be made. *And further*, That the caption of all records of judgments in the ſaid Mayors Courts, ſhall be in the following form, "Pleas in the Court of Common Pleas, called the Mayors "Court, held at" ſuch place, "of or in" ſuch city as the ſame court ſhall be actually held "in and for the ſaid city, before the Mayor, Recorder, and Aldermen of the ſame "city, on" ſuch day as the proceſs againſt the defendant or defendants in ſuch cauſe ſhall be returnable, and be returned ſerved. And that the caption of all records of judgments in the ſeveral courts of Common Pleas in the ſeveral counties of this State, ſhall be in the following form, "Pleas in the court of Common Pleas held at" ſuch place as the ſame court ſhall be actually held, "in and for the county of Weſtcheſter," or other county, as the caſe may be, "before the Judges and Aſſiſtant Juſtices of the "ſame court, on" ſuch day as the proceſs againſt the defendant or defendants in ſuch caſe ſhall be returnable, and be returned ſerved. And that it ſhall not be neceſſary in any ſuch records in any of the ſaid Mayors courts, or courts of Common Pleas in the ſeveral counties, to inſert the names of the Mayor, Recorder, Aldermen, Judges, or Aſſiſtant Juſtices, or any of them, either in the caption of the ſame records, or in any continuance, or other part of the ſame records; nor ſhall it be neceſſary, in any ſuch record, to ſet forth the authority by which any ſuch court is held.

Records of judgments, &c. how made up and entered.

VIII. *And be it further enacted by the authority aforeſaid*, That upon the removal of any ſuch record by writ of error, or upon error brought in any manner upon any ſuch judgment, it ſhall be lawful to alledge any diminution, or defect, or variance, or the want of any proceſs or proceeding in the ſame manner, and the like proceeding ſhall be thereupon had, as may or ought to be done in caſes of error upon judgments in the Supreme Court.

On removal of record, &c. diminution may be alledged.

IX. *And be it further enacted by the authority aforeſaid*, That there ſhall be taken, allowed and paid, for drawing, making up, and entering or engroſſing every ſuch record in any of the ſaid Mayor's Courts, or other Courts of Common Pleas, the ſum of *Twelve Shillings* and no more, to be taken by the Attorney or Clerk who ſhall do the ſervice; *And further*, that no execution in any caſe ſhall be iſſued until the judgment is made up and ſigned.

Fees for drawing ſuch record.

X. *And be it further enacted by the authority aforeſaid*, That inſtead of the fees allowed for drawing a declaration in any of the Mayors Courts, or Courts of Common Pleas in the ſeveral cities and counties within this State, in and by an act, entitled "An act for regulating the fees of the ſeveral Officers and Miniſters of the Courts of Juſtice within this State;" there ſhall be allowed, paid and taken the ſum of ſix ſhillings, and for a copy of ſuch declaration the ſum of three ſhillings and no more.

Fees for drawing a declaration.

XI. *And be it further enacted by the authority aforeſaid*, That all former laws for fixing the times and places of holding the ſaid Courts of Common Pleas and General Seſſions of the Peace, and Mayors Courts of the cities of New-York and Albany ſhall be, and hereby are repealed.

Former laws, &c. repealed.

## CHAP. XI.

AN ACT *for the further direction of the Commiſſioner of Forfeitures for the Eaſtern Diſtrict.* Paſſed the 5th of February, 1787.

Commiſſioner of Forfeitures for the eaſtern diſtrict impowered, &c.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful to and for the Commiſſioner of Forfeitures for the Eaſtern Diſtrict, to ſell and diſpoſe of, at public vendue, at the coffee-houſe in the city of New-York, all, or ſuch parts as he ſhall think proper, of the forfeited eſtates ſituated in the ſaid Eaſtern Diſtrict, any law to the contrary hereof in any wiſe notwithſtanding.

Proviſo.

*Provided nevertheleſs,* That the ſaid Commiſſioner ſhall have, previous to any ſuch ſales, adverti ſed the ſame in two of the public newſpapers printed in this State, for the term of ſix weeks ſucceſſively.

## CHAP. XII.

AN ACT *to remit certain Penalties, Fines, and Amerciaments.* Paſſed the 6th of February, 1787.

Penalties of recognizances forfeited before 4 May 1786, remitted.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the penalties of all recognizances which have become forfeited to the people of this State, and eſtreated before the fourth day of May laſt, and which have not been paid, ſhall be, and the ſame are hereby declared to be remitted and diſcharged: And all proſecutions for the recovery of any ſuch penalties ſhall, from and after the paſſing of this act, ceaſe and be diſcontinued.

Of fines, &c.

II. *And be it further enacted by the authority aforeſaid,* That all fines and amerciaments impoſed or ſet in any court of record, previous to the ſaid fourth day of May laſt, and not already levied and collected, other than fines in caſes where convictions have been had, ſhall be, and the ſame are hereby declared to be remitted and diſcharged.

Fines received, & not accounted for, how to be paid.

III. *And be it further enacted by the authority aforeſaid,* That all fines, forfeitures, and amerciaments, received by any officer, before the firſt day of January, in the year of our Lord, one thouſand ſeven hundred and eighty-two, and which have not been accounted for, may be paid into the Court of Exchequer in any public ſecurities made receivable upon ſales of confiſcated eſtates, provided the ſame be accounted for and paid into the exchequer, before the firſt day of November next.

Allowance made to James Black, &c.

IV. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Court of Exchequer to make ſuch allowance to James Black, of the city of New-York, for ſuch ſums as he has expended and paid, as adminiſtrator of the goods and chattels of Jane Downie, *a felo de ſe,* out of ſuch part of her eſtate now in his hands as by the ſaid court ſhall be deemed reaſonable.

## CHAP. XIII.

AN ACT *for preventing Uſury.* Paſſed the 8th of February, 1787.

No higher intereſt to be taken, than 7 per cent. per annum.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That no perſon or perſons whomſoever, ſhall hereafter take, directly or indirectly, for loan of any monies, wares, merchandize, or other things whatſoever, above the value of ſeven pounds for the forbearance of one hundred pounds for one year, and ſo after that rate for a greater or leſs ſum, or for a longer or ſhorter time, nor take any bond, bill, note, or ſecurity whatſoever, for payment of money to be lent, or to be due or payable by any means whatſoever, whereupon or whereby there ſhall be reſerved, or taken, or included, above the rate of ſeven pounds in the hundred, as aforeſaid. *And*

*And further*, That all bonds, bills, notes, contracts, and aſſurances whatſoever, and all depoſits of goods, or other things whatſoever, for payment of any principal or money to be lent, or covenanted or agreed to be paid, upon or for any uſury, whereupon or whereby there ſhall be reſerved, or taken, or ſecured, or agreed to be reſerved or taken, above the ſum of ſeven pounds in the hundred, as aforeſaid, ſhall be utterly void.

Bonds, &c. in what caſes to be void.

II. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons whomſoever, ſhall hereafter take, accept, or receive, by way or means of any corrupt bargain, loan, exchange, chevizance, ſhift, or intereſt of any money, wares, merchandize, or any other thing or things whatſoever, or by any deceitful ways or means, or by any covin, engine, or deceitful conveyance, for the forbearing, or giving day of payment for one whole year, of or for his, her, or their money, or other thing, above the ſum of ſeven pounds, either in money, goods, or any other thing whatſoever, for the forbearing of one hundred pounds for one year, and ſo after that rate for a greater or leſs ſum, or for a longer or ſhorter time, the perſon or perſons ſo paying any ſuch ſums of money, or delivering any ſuch goods, or other thing, his, her, or their executors or adminiſtrators, ſhall be at liberty, at any-time within one year then next, to ſue for and recover the money ſo paid, or the value of the goods or other thing ſo delivered, above the rate aforeſaid, or any part thereof, from the perſon or perſons who ſhall have taken, accepted, or received the ſame, or from his, her, or their executors or adminiſtrators, with coſts of ſuit, by action of debt founded on this act, to be proſecuted in any court of record having cognizance of the ſame; in which actions it ſhall be ſufficient for the plaintiff or plaintiffs to alledge, that the defendant or defendants, or his, her, or their teſtator or inteſtate, is, or are, or were indebted to the plaintiff or plaintiffs, or to his, her, or their teſtator or inteſtate, in the ſum ſo paid, or the value of the goods or other things ſo delivered, over and above the rate aforeſaid, whereby an action accrued to the plaintiff or plaintiffs, according to the form of the ſtatute, intitled, "An act for preventing Uſury," to demand and have of the defendant or defendants, or his, her, or their teſtator or inteſtate, the ſaid ſum, without ſetting forth the ſpecial matter. And in caſe the perſon or perſons ſo paying any ſuch ſum or ſums of money, or ſo delivering any ſuch goods or other thing, ſhall not, within the time aforeſaid, really and *bona fide*, and without covin or colluſion, commence his, her, or their ſuit or action for the money ſo paid, or for the value of the goods or other thing ſo delivered as aforeſaid, or ſhall ſuffer ſuch ſuit or action to be delayed or diſcontinued, then it ſhall and may be lawful for any other perſon or perſons, within one year after ſuch neglect, diſcontinuance, or delay, by any ſuch action or ſuit as aforeſaid, to ſue for and recover the ſame in manner aforeſaid, with coſts of ſuit, againſt the perſon or perſons who ſhall have taken, accepted, or received the ſame, his, her, or their executors or adminiſtrators, the one moiety thereof to the uſe of the perſon or perſons who will proſecute for the ſame with effect, and the other moiety thereof to the uſe of the poor of the town or place where the offence ſhall be committed.

Remedy for perſons paying above 7 pet cent. per annum

III. *And be it further enacted by the authority aforeſaid*, That no ſcrivener, broker, ſolicitor, or driver of bargains or contracts, ſhall hereafter take or receive, directly or indirectly, any ſum or ſums of money, reward, goods, or other thing, for brokage, ſoliciting, driving, or procuring the loan or forbearance of any ſum or ſums of money, over and above the rate or value of ten ſhillings for the loan or forbearance of one hundred pounds for one year, and ſo in proportion for a greater or leſs ſum, or above three ſhillings for making or renewing any bond, bill, note, or other ſecurity, for the loan or forbearance thereof, or for any counter bond, bill, or other ſecurity concerning the ſame. And in caſe any ſcrivener, broker, ſolicitor, or driver of bargains or contracts, or any other perſon or perſons, ſhall take, accept, or receive, directly or indirectly, any ſum or ſums of money, reward, goods, or other thing, or any depoſit or ſecurity for brokage, ſoliciting, driving, or procuring the loan or forbearance of any ſum or ſums of money, over and above the rate or value of ten ſhillings for the loan or forbearance of one hundred pounds for one year, and ſo in proportion for a greater or leſs ſum, the perſon or perſons ſo paying ſuch ſum or ſums, or delivering or depoſiting any ſuch goods, or other thing, above the rate aforeſaid, or his, her, or their executors or adminiſtrators ſhall,

Premium to brokers, &c.

ſhall be at liberty, at any time within one year after paying or delivering the ſame, to ſue for and recover the money ſo paid, and the value of the goods, or other thing ſo delivered or depoſited, above the rate aforeſaid, or any part thereof, from the perſon or perſons who ſhall have taken, accepted, or received the ſame, or from his, her, or their executors or adminiſtrators, with coſts of ſuit, by action of debt, founded on this act, to be proſecuted in any court of record having cognizance of the ſame; in which actions it ſhall be ſufficient for the plaintiff or plaintiffs to alledge that the defendant or defendants, or his, her, or their teſtator or inteſtate, is, or are, or were indebted to the plaintiff or plaintiffs, his, her, or their teſtator or inteſtate, in the ſum ſo paid, or the value of the goods or other thing ſo delivered or depoſited, over and above the rate aforeſaid, whereby an action accrued to the plaintiff or plaintiffs, or to his, her, or their teſtator or inteſtate, according to the form of the ſtatute, intitled, "An act for preventing Uſury," to demand and have of the defendant or defendants, or his, her, or their teſtator or inteſtate, the ſaid ſum, without ſetting forth the ſpecial matter. And in caſe the perſon or perſons ſo paying any ſuch ſum or ſums of money, or delivering or depoſiting any ſuch goods, or other thing, or his, her, or their executors or adminiſtrators, ſhall not, within the time aforeſaid, really and *bona fide*, and without fraud or colluſion, commence his, her, or their ſuit or action for the money ſo paid, or for the value of the goods or other things ſo delivered or depoſited as aforeſaid, over and above the rate aforeſaid, or ſhall ſuffer ſuch ſuit to be delayed or diſcontinued, then it ſhall and may be lawful for any other perſon or perſons, within one year after ſuch neglect, diſcontinuance, or delay, by any ſuch action or ſuit as aforeſaid, to ſue for and recover the ſame in manner aforeſaid, with coſts of ſuit, againſt the perſon or perſons who ſhall have taken, accepted, or received the ſame, his, her, or their executors or adminiſtrators, the one moiety thereof to the uſe of the perſon or perſons who ſhall proſecute for the ſame with effect, and the other moiety thereof to the uſe of the poor of the town or place where the offence ſhall be committed.

Perſons aggrieved, to commence their proſecutions within one year.

And for the better diſcovery of the money, goods, or other things ſo taken, accepted, or received as aforeſaid, upon or for the loan or forbearance of money, goods, or other things, or for brokage, ſoliciting, driving or procuring the loan or forbearance of any ſum or ſums of money;

IV. *Be it further enacted by the authority aforeſaid*, That all and every the perſon or perſons who, by virtue of this act, ſhall or may be liable to be ſued for the ſame, ſhall be obliged and compellable to anſwer, upon oath, ſuch bill or bills as ſhall be preferred againſt him, her, or them, in the Court of Chancery, for diſcovering the ſum or ſums of money, goods, or other thing ſo taken, accepted, or received as aforeſaid. *And further*, That upon the diſcovery and repayment or return of the money, goods, or other thing ſo to be diſcovered, the perſon or perſons who ſhall ſo diſcover and repay or return the ſame as aforeſaid, with coſts of ſuit, ſhall be acquitted and diſcharged from any further or other puniſhment, forfeiture, or penalty, which he, ſhe, or they may have incurred or become liable to, by taking, accepting, or receiving ſuch money, goods, or other thing ſo diſcovered, and repaid or returned as aforeſaid.

Mode for diſcovering goods, &c. loaned contrary to this act.

V. *And be it further enacted by the authority aforeſaid*, That the act, entitled, "An act for lowering the intereſt of money to ſeven per cent." paſſed the 16th of December 1737, be, and the ſame is hereby repealed.

A former act repealed.

*Provided*, That ſuch repeal ſhall not be conſtrued to affect any ſuits already commenced, or which hereafter may be commenced, for any penalties heretofore incurred by force of the ſaid act; or to affect the right and benefit of pleading the ſaid ſtatute in bar to any ſuit already brought, or hereafter to be brought, upon any contract heretofore made; but ſuch ſuits may be proſecuted, and ſuch pleas made and allowed, and judgments thereupon given, in the ſame manner as if this preſent act had not been paſſed.

Proviſo.

CHAP.

## CHAP. XIV.

AN ACT *to reduce the Laws concerning Coſts, into one Statute.* Paſſed the 12th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly and it is hereby enacted by the authority of the ſame,* That if any perſon or perſons ſhall commence or ſue in any Court of Record within this State, any action, bill, or plaint of debt, covenant, treſpaſs upon the caſe, detinue, account, or upon any ſtatute, for any offence or wrong perſonal, immediately ſuppoſed to be done to the plaintiff, or plaintiffs, treſpaſs, ejectment, or any other action whatſoever, real, perſonal or mixt, and the plaintiff or plaintiffs, demandant or demandants, ſhall by verdict or otherwiſe, recover damages in any ſuch action, bill, or plaint, that then the plaintiff or plaintiffs, demandant or demandants, in every ſuch action, bill, or plaint, ſhall have judgment to recover his, her, or their coſts, againſt every ſuch defendant or defendants, to be aſſeſſed and taxed by the diſcretion of the Court where any ſuch action, bill or plaint, ſhall be commenced, ſued or taken; and ſhall be levied and recovered, together with the debt or damages aforeſaid, againſt the body or bodies, or goods and chattels, lands and tenements of the defendant or defendants.

In ſuits where a plaintiff recovers damages, he ſhall recover his coſts.

II. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall commence or ſue in any Court of Record within this State, any action, bill, or plaint whatſoever as aforeſaid, wherein the plaintiff or plaintiffs, demandant or demandants, might have coſts, (if in caſe judgment ſhould be given for him, her, or them) and the plaintiff or plaintiffs, demandant or demandants, in any ſuch action, bill, or plaint, after appearance of the defendant or defendants be non-ſuited, or that any verdict happen to paſs by any lawful trial againſt the plaintiff or plaintiffs, demandant or demandants, in any ſuch action, bill, or plaint, that then the defendant or defendants, in every ſuch action, bill, or plaint, ſhall have judgment to recover his coſts againſt every ſuch plaintiff and plaintiffs, (except againſt executors or adminiſtrators proſecuting in the right of their teſtators or inteſtates,) demandant or demandants, to be aſſeſſed and taxed by the diſcretion of the court, where any ſuch action, bill, or plaint ſhall be commenced, ſued, and taken as aforeſaid; and alſo, that every defendant or defendants, ſhall have ſuch proceſs and execution for the recovery and having of his, her, or their coſt, againſt the ſame plaintiff or plaintiffs, demandant or demandants, as the ſame plaintiff or plaintiffs, demandant or demandants, ſhould or might have had againſt the defendant or defendants, in caſe that judgment had been given for the ſaid plaintiff or plaintiffs, demandant or demandants, in any ſuch action, bill, or plaint.

Coſts of ſuit to follow judgment.

III. *And be it further enacted by the authority aforeſaid,* That every avowant, and every other perſon or perſons that make avowry, juſtification or cognizance, as bailiff, or ſervant to any perſon or perſons, in any replevin or ſecond deliverance, if the ſame avowry, cognizance, or juſtification, be found for them, or the plaintiff or plaintiffs in the ſame be non-ſuit, or otherwiſe barred, that then they ſhall recover their damages and coſts againſt the ſaid plaintiff or plaintiffs, as the ſame plaintiff or plaintiffs ſhould have done, if he, ſhe, or they had recovered in the ſame replevin or ſecond deliverance, if the ſame had been found againſt the defendant or defendants.

In caſes of replevin, &c. coſts how adjudged.

IV. *And be it further enacted by the authority aforeſaid,* That if any action, bill, plaint, ſuit, or cauſe, not concerning any freehold, or inheritance, or title of land, nor for any aſſault, battery or impriſonment, nor for ſlander, nor replevin, nor malicious proſecution, which have been or ſhall be brought or commenced in any of the Courts of Common Pleas, or Mayors Courts in any of the cities or counties of this State, if the plaintiff ſhall not recover above the ſum of ten pounds, not having cauſed an affidavit on oath to be made and filed before the commencing ſuch ſuit or action, that the debt due, or damage ſuſtained, or the value of the thing in demand exceed the ſum of ten pounds, then, and in every ſuch caſe, the plaintiff ſhall not recover any coſts of ſuit,

In actions not exceeding ten pounds, coſts how paid.

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but the court ſhall award that the plaintiff ſhall pay to the defendant his or her coſts, to be taxed, for which the defendant ſhall have execution againſt the body or lands, and goods and chattels of the plaintiff.

In actions of treſpaſs, &c. where the damage is found to to be under forty ſhillings, plaintiff to recover no more coſts than damages.

V. *And be it further enacted by the authority aforeſaid*, That in all actions of treſpaſs and aſſault and battery, commenced or proſecuted in the Supreme Court, wherein the Judge at the trial of the cauſe ſhall not find and certify under his hand upon the back of the record, that an aſſault and battery was ſufficiently proved by the plaintiff againſt the defendant, or that the freehold, or title of the land mentioned in the plaintiff's declaration, was chiefly in queſtion, the plaintiff in ſuch action, in caſe the Jury ſhall find the damages to be under the value of *forty ſhillings*, ſhall not recover or obtain more coſts of ſuit than the damages ſo found ſhall amount unto: And if any more coſts in any ſuch action ſhall be awarded, the judgment ſhall be void, and the defendant ſhall, by this act, be acquitted of and from the ſame, and may have his action againſt the plaintiff for ſuch vexatious ſuit, and recover his damages and coſts of ſuch ſuit, in any of the ſaid Courts of Record.

22 Car. 2. c. 9.

Proceedings upon actions of ſlander.

VI. *And be it further enacted by the authority aforeſaid*, That in all actions upon the caſe, for ſlanderous words, to be ſued or proſecuted by any perſon or perſons in the Supreme Court, if the Jury upon the trial of the iſſue in ſuch action, or the Jury that ſhall inquire of the damages do find or aſſeſs the damages under forty ſhillings, then the plaintiff or plaintiffs in ſuch action, ſhall have and recover only ſo much coſts, as the damages ſo given or aſſeſſed amount unto, without any further increaſe of the ſame.

21 Jac. 1. c. 16. ſ. 9.

Damages, &c. on wilful treſpaſs.

VII. *And be it further enacted by the authority aforeſaid*, That in all actions of treſpaſs to be commenced and proſecuted in any Court of Record within this State, wherein at the trial of the cauſe it ſhall appear and be certified by the Judge, under his hand upon the back of the record, that the treſpaſs upon which any defendant ſhall be found guilty, was wilful and malicious, the plaintiff ſhall recover not only his damages, but his full coſts of ſuit, any thing in this act contained to the contrary notwithſtanding.

8 & 9. W. 3. c. 11. ſ. 4.

On writs of Scire Facias, &c.

VIII. *And be it further enacted by the authority aforeſaid*, That in all ſuits upon any writ or writs of *ſcire facias* and ſuits upon prohibitions, the plaintiff obtaining judgment, or any award of execution, after plea pleaded, or demurrer joined therein, ſhall likewiſe recover his coſts of ſuit, and if the plaintiff ſhall become non-ſuit, or ſuffer a diſcontinuance, or a verdict ſhall paſs againſt him, the defendant ſhall recover his coſts and have execution for the ſame, in manner aforeſaid.

8 & 9. W. 3. c. 11. ſ. 1.

IX. *And be it further enacted by the authority aforeſaid*, That where ſeveral perſons are or ſhall be made defendants to any action, bill or plaint of treſpaſs, aſſault, falſe impriſonment, or ejectment, and any one or more of them ſhall be upon the trial thereof, acquitted by verdict, every perſon or perſons ſo acquitted, ſhall have and recover his or her coſts of ſuit, in like manner as if a verdict had been given againſt the plaintiff or plaintiffs, and acquitted all the defendants, unleſs the Judge before whom ſuch cauſe ſhall be tried, ſhall immediately after the trial thereof, in open court, certify upon the record, under his hand, that there was a reaſonable cauſe for the making ſuch perſon or perſons a defendant or defendants to ſuch action, bill or plaint.

Proceedings where numbers are concerned.

X. *And be it further enacted by the authority aforeſaid*, That when and as often as any perſon or perſon ſhall ſue forth, or by any means, cauſe or procure to be ſued forth, out of any court, any bill, *latitat capias alias or pluries capias* againſt any perſon or perſons, who upon the ſame writ or writs, or proceſs, ſhall happen to be impriſoned, or ſhall upon the return of the ſame writ or writs, or proceſs, appear and put in bail to anſwer ſuch ſuit as ſhall be objected againſt him, her or them, according to the common order or practice of ſuch court, then, and in every ſuch caſe, if the party or parties at whoſe ſuit the ſame writ or writs, or proceſs, was or were obtained or ſued forth, do not before the end of the next term or court after the return of the ſame writ or writs, or proceſs, or after ſuch bail had and taken, put into the ſame court his, her or their bill or declaration, againſt the ſame party or parties againſt whom ſuch writ or writs, or proceſs hath been or ſhall be ſued; or if after a declaration had and

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put into the ſame court, the plaintiff or plaintiffs, in ſuch caſe, ſhall not proſecute the ſame with effect, but ſhall willingly and apparently to the ſame court, ſuffer his, her or their ſuit to be delayed, or ſhall ſuffer the ſame ſuit to be diſcontinued, or otherwiſe ſhall be non-ſuit in the ſame, then and in every ſuch caſe, ſuch court ſhall or may at their diſcretion, award and adjudge to every ſuch perſon and perſons ſo arreſted, vexed, moleſted, or troubled by ſuch writ or writs, or proceſs or ſuit, his, her and their coſts, damages and charges, by any means ſuſtained by occaſion of any ſuch writ or writs, proceſs, arreſt or ſuits, taken, ſued, or had againſt him, her or them, to be paid by ſuch perſon or perſons ſo cauſing or procuring any ſuch writ or writs, or proceſs, to be ſued forth, as aforeſaid, and for which coſts, damages and charges, the perſon or perſons to whom the ſame ſhall be awarded or adjudged, ſhall and may have like execution as aforeſaid.

Judgment on demurrer, &c.

XI. *And be it further enacted by the authority aforeſaid*, That if at any time hereafter, any perſon or perſons ſhall commence or proſecute in any Court of Record, any action, plaint or ſuit, wherein upon any *demurrer* either by plaintiff or defendant, demandant or tenant, judgment ſhall be given by the court againſt ſuch plaintiff, or demandant, or if at any time after judgment given for the defendant or tenant, in any ſuch action, plaint or ſuit, the plantiff or demandant ſhall ſue any writ or writs of error, to annul the ſaid judgment, and the ſaid judgment ſhall afterwards be affirmed to be good, or the ſaid writ of error ſhall be diſcontinued, or the plaintiff ſhall be non-ſuit therein, the defendant or tenant in every ſuch action, plaint, ſuit or writ of error, ſhall have judgment to recover his coſts againſt every ſuch plaintiff or plaintiffs, demandant or demandants, and have execution for the ſame, in like manner as aforeſaid.

3 Geo. 2. c. 11. s. 2.

On writs of error.

XII. *And be it further enacted by the authority aforeſaid*, That if any defendant or defendants, tenant or tenants, or any other perſon or perſons, that ſhall be bound by any judgment obtained in any Court of Record, ſhall ſue before execution had, any writ of error, to reverſe any ſuch judgment in delay of execution, that then, if the ſame judgment be affirmed good in the ſaid writ of error, and not erroneous, or if the ſaid writ be diſcontinued in the default of the party, or if any perſon or perſons that ſueth any writ of error be non-ſuited in the ſame, that then the ſaid perſon or perſons againſt whom the ſaid writ of error is ſo ſued, ſhall recover his, her or their coſts and damages for his, her or their delay and wrongful vexation in the ſame, to be aſſeſſed and taxed by the diſcretion of the Juſtices or court before whom the ſaid writ of error is returnable, and have execution for the ſame in manner aforeſaid.

3. Hen. 7. c. 10.

Proſecutions on writs of error, and judgment affirmed, the defendant to recover double coſts.

XIII. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall ſue or proſecute any writ or writs of error, for reverſal of any judgment whatſoever, given after any verdict in any of the courts aforeſaid, and the judgment ſhall afterwards be affirmed, then every ſuch perſon or perſons ſhall pay unto the defendant or defendants in the ſaid writ or writs of error, his, her or their double coſts, to be aſſeſſed by the court where ſuch writ of error ſhall be depending for the delaying of execution.

3 Jac. 2. c. 8. s. 2. c. 3.

On writs of error quaſhed.

XIV. *And be it further enacted by the authority aforeſaid*, That upon the quaſhing any writ of error for variance from the original record or other defect, the defendant or defendants in ſuch writ of error, ſhall recover againſt the plaintiff or plaintiffs iſſuing out ſuch writ, his, her or their coſts, as he, ſhe or they ſhould have had, if the judgment had been affirmed, and to be recovered in the ſame manner.

4 Ann. c. 16. s. 25.

No writ of Capias pro fine, to be ſued out, &c.

XV. *And be it further enacted by the authority aforeſaid*, That no writ or writs, commonly called *capias pro fine*, in any ſuit or action of treſpaſs, ejectment, aſſault, and falſe impriſonment, in any Court of Record be ſued out or proſecuted againſt any defendant or defendants, or any further proceſs thereupon, but the ſame fines are and ſhall hereby be remitted and forever diſcharged.

And for preventing vexatious ſuits in Courts of Equity,

Preventing vexatious ſuits.

XVI. *Be it further enacted by the authority aforeſaid*, That upon the plaintiff's diſmiſſing his own bill, or the defendant's diſmiſſing the ſame, for want of proſecution, the plaintiff in the ſuit ſhall pay to the defendant or defendants, his, her or their full coſts, to be taxed by a maſter.

Suits in behalf of the State.

XVII. *And be it further enacted by the authority aforeſaid*, That in all ſuits commenced or to be commenced upon any obligation or ſpecialty, made or to be made to the

the people of the State of New-York, or to any perſon or perſons, to or for their uſe, the people of this State, or other plaintiff or plaintiffs, ſhall have and recover both the debt and coſts, and damages, as any other common perſons may do in ſuits for their debts.

Where a ſuit is bro't for the State, and loſt, defendant to recover no coſt.

XVIII. *And be it further enacted by the authority aforeſaid*, That where any ſuit or action is or ſhall be commenced, ſued and proſecuted, by and in the name of any perſon or perſons, for any debt, ſum or ſums of money, due, owing, or belonging to the people of this State, and the plaintiff or plaintiffs ſhall be non-ſuited therein, or if a verdict ſhall paſs againſt ſuch plaintiff or plaintiffs, the defendant or defendants, ſhall not recover any coſts againſt ſuch plaintiff or plaintiffs.

Proviſo.

XIX. *Provided always*: *And be it further enacted by the authority aforeſaid*, That nothing in this act contained ſhall extend to any popular action, nor to any action to be proſecuted by any perſon in behalf of himſelf and the people of this State upon any penal ſtatute, nor to any indictment, preſentment, inquiſition, or appeal.

## CHAP. XV.

AN ACT *for regulating Elections.* Paſſed the 13th of February, 1787.

Manner of proceeding in elections.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*; That all elections for Governor, Lieutenant-Governor, Senators and Members of Aſſembly, ſhall be by ballot: and that ſuch elections ſhall be held, not by counties but by wards, in the cities of New-York and Albany; and by cities, towns, manors, precincts, and diſtricts, in all other parts of this State; and for that purpoſe, *the laſt Tueſday in April*, in every year, forever hereafter, ſhall be the anniverſary day on which ſuch elections ſhall reſpectively be held, and from which the ſame ſhall be reſpectively continued by adjournment, if neceſſary, from day to day, not exceeding five days, until the ſame ſhall reſpectively be completed.

Time and place of holding elections.

II. *And be it further enacted by the Authority aforeſaid*, That the reſpective Town-Clerks, Superviſors, and Aſſeſſors, of the ſeveral cities, towns, manors, precincts, and diſtricts in this State, for the time being, or the majority of them, or the ſurvivors of them, or the majority of ſuch ſurvivors, ſhall from time to time be the inſpectors of the ſaid election in each city, town, manor, diſtrict, and precinct reſpectively, except in the cities of New-York and Albany, wherein the appointment ſhall be as follows; *That is to ſay*, That the Mayor, Recorder, Aldermen, and Aſſiſtants, or Common-council-men, ſhall convene together in common-council, at the city-hall of the ſaid cities reſpectively, on the firſt Tueſday of April, in every year; and then and there ſhall, by plurality of voices, elect from among the ſubſtantial freeholders actually reſident in each ward in the ſaid cities reſpectively, three perſons for Inſpectors of the then enſuing election, to be held in the ſeveral wards of the ſaid cities reſpectively, for Governor, Lieutenant-Governor, Senator or Senators, and Members of Aſſembly, or ſuch of them as by the conſtitution of this State and this act ſhall be to be choſen at ſuch election.

Who to be Inſpectors, and how choſen.

III. *And be it further enacted by the authority aforeſaid*, That the Clerk of the Senate for the time being, ſhall forthwith, in the preſent year, and between the firſt day of January and the firſt day of March in every year hereafter, incloſe and ſend in writing under his hand, to the ſeveral Sheriffs of the different counties in the reſpective great diſtricts of this State, a notification of the names of the Senators for each reſpective diſtrict whoſe ſeats are to become vacant at the expiration of the year; and of the names of thoſe, if any, whoſe ſeats are become vacant by death, or otherwiſe; and of the number of Senators to be elected in ſuch diſtrict at the next enſuing eſection. And alſo that a Governor, and Lieutenant-Governor, or a Lieutenant-Governor only, (as the caſe may require) is or are to be choſen at the then next election, if any ſuch choice ſhall be neceſſary. And in caſe of the death or inability, or of the removal of ſuch Clerk

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out of this State, it ſhall be the duty of the Secretary of this State, and he is hereby enjoined, to do all and every thing and things which the ſaid Clerk is hereby enjoined to do. And each Sheriff ſhall without delay, tranſmit a copy of ſuch notification to ſome one Inſpector in each ward, town, manor, diſtrict and precinct reſpectively, in his county; and alſo affix a copy of the ſame notification upon the door of the court houſe in his county.

Sheriff to notify the Inſpectors.

IV. *And be it further enacted by the authority aforeſaid*, That each Inſpector upon receiving ſuch notification as aforeſaid, ſhall immediately give notice thereof to the other Inſpectors of the ſame ward, town, manor, precinct, or diſtrict; and the ſeveral and reſpective Inſpectors for each reſpective ward, town, manor, precinct, and diſtrict, or the major part of them, ſhall, without delay, convene together, and by writing, under their reſpective hands, to be affixed in at leaſt three of the moſt public places of ſuch ward, town, manor, precinct, or diſtrict reſpectively, give eight days notice of the place (which ſhall be the moſt public and convenient for the purpoſe) whithin the ſame where ſuch election for a Governor, Lieutenant-Governor, Senator or Senators, and Members of Aſſembly, or ſuch of them as ſhall then be to be choſen; then next ſhall be held within the ſame on the anniverſary day, hereby appointed for that purpoſe; and on ſuch day, and at ſuch place, the ſeveral Inſpectors attending, which ſhall be the major part of them, ſhall, in full view and hearing of the people, adminiſter to each other, and reſpectively take at, the opening of the election, the following oath, viz:

Inſpectors to give eight days notice of the place of election.

Inſpectors to take an oath.

" I —— ——, do ſolemnly and ſincerely declare and ſwear in the preſence of Al-
" mighty God, that I will in all things, well, faithfully, honeſtly and impartially,
" and according to the beſt of my knowledge and abilities, execute the office of In-
" ſpector of this election,"

Form of the Inſpectors oath.

*And further*, That at every ſuch election as aforeſaid, capable and ſufficient Clerks, not leſs than two for each ward, town, manor, diſtrict, and precinct reſpectively, ſhall be appointed by the Inſpectors, or the major part of them, to be the Clerks of every ſuch Court of Election as aforeſaid reſpectively; each of whom ſhall keep a poll-liſt at every ſuch election, under the direction and view of the ſaid Inſpectors reſpectively, or the major part of them; and the ſaid Inſpectors, or the major part of them reſpectively, ſhall preſide at every ſuch election, and conduct and direct the ſame according to the regulations herein preſcribed, and be the returning officers thereof reſpectively, in manner hereinafter directed; and before admitting any perſon to vote at any ſuch election, ſhall adminiſter to each Clerk, who is hereby required to take the following oath, viz:

Clerks to be appointed.

" I —— ——, do ſolemnly and ſincerely declare and ſwear in the preſence of
" Almighty God, that I will faithfully, truly, honeſtly and impartially, enter and
" keep the poll-liſts at this election; and in all things will faithfully, truly, honeſtly
" and impartially, according to the beſt of my knowledge and abilities, do, perform,
" and fulfil my duty as a Clerk thereof."

Clerks oath.

And the Inſpectors and Clerks being thus ſworn, the ſaid Inſpectors ſhall cauſe proclamation to be three times made with a loud voice, as follows, viz:

" Hear ye! hear ye! hear ye! the poll of this election is opened, and all manner
" of perſons attending the ſame are ſtrictly charged and commanded by the authority
" and in the name of the people of this State, to keep the peace thereof, during their
" attendance at this election, upon pain of impriſonment."

Proclamation how made.

Which proclamation ſhall be in like manner made at the opening of the poll, upon every adjournment thereof; and on every adjournment of the poll, and on the cloſing thereof, proclamation thereof reſpectively ſhall be made with a loud voice.

*Provided always*, That the proclamation whereby the ſame ſhall be cloſed, ſhall be preceded by a proclamation to be made three hours before the cloſing of the poll, that the ſame will be cloſed at the expiration of three hours. And the poll of every ſuch election ſhall only be held open in the day time, and not before ſun-riſe nor after ſun-ſet.

Proviſo.

Poll to be held open only in the day time.

V. *And be it furher enacted by the authority aforeſaid*, That the poll-liſts for Governor, Lieutenant-Governor and Senators, or ſuch of them as ſhall to be choſen at any

Poll-liſts, &c. to be kept diſtinctly.

any ſuch election, ſhall be kept diſtinct and ſeparate from thoſe for Members of Aſſembly; and that no perſon ſhall vote at any ſuch election, out of the ward, town, manor, precinct or diſtrict wherein he ſhall actually reſide.

Mode of conducting elections of Governor, &c.

VI. *And be it further enacted by the authority aforeſaid*, That the mode of conducting every ſuch election as aforeſaid, ſhall be as follows, to wit; Every perſon reſpectively who ſhall be qualified according to the conſtitution of this State, and this law, to vote for Governor, Lieutenant-Governor and Senators, ſhall at ſuch election openly deliver his ballot for Governor, Lieutenant-Governor and Senators, or ſuch of them as ſhall be then to be choſen, to one of the Inſpectors, who ſhall receive the ſame in the preſence of the other Inſpectors attending at ſuch election; which ballot ſhall be a paper ticket, containing the name of a perſon for Governor, and the name of a perſon for Lieutenant-Governor, and the names of ſo many perſons for Senators as ſhall be then to be choſen in that diſtrict wherein the elector ſhall reſide, or ſuch and ſo many of them reſpectively as are then to be choſen, and ſuch elector ſhall think proper to vote for, ſeverally written upon the ſame paper ticket, and diſtinguiſhing who is voted for as Governor when a Governor is to be choſen,; and who is voted for as Lieutenant-Governor, when a Lieutenaut-Governor is to be choſen; and who are voted for as Senators. And the ſaid paper ticket ſhall be ſo folded or rolled up and tied, or otherwiſe cloſed, as to conceal the writing thereon. And on receipt of every ballot or ticket for Governor, Lieutenant-Governor and Senators, or any or either of them, the Inſpectors ſhall cauſe the name of the elector to be entered in the books or poll-liſts for Governor, Lieutenant-Governor, and Senators, or ſuch of them as are then to be choſen, by all the Clerks, and ſhall cauſe the ballot, without ſuffering the ſame to be inſpected, to be put into a box to be provided for the purpoſe of receiving the ballots for Governor, Lieutenant-Governor, and Senators, or ſuch of them as are then to be choſen, with a ſufficient lock thereto; and which box ſhall be locked, and the key thereof be kept during the election by one of the Inſpectors attending ſuch election, to be appointed for the purpoſe by the major part of them; and a ſmall hole ſhall be made in the lid or cover of the box, ſufficient only to receive each ballot, and through which all the ballots ſhall be put into the box, and which box only ſhall be opened at the times herein after mentioned.

Mode of electing Members of Aſſembly.

*And further*, That every perſon who ſhall be qualified according to the conſtitution of this State, and this law, to vote for Members of Aſſembly, ſhall at ſuch election openly deliver his ballot for Members of Aſſembly to one of the Inſpectors who ſhall receive the ſame in the preſence of the other Inſpectors attending at ſuch election, and which ballot ſhall be a paper ticket, containing the names of as many perſons for Members of Aſſembly as are then to be choſen for the county wherein ſuch elector ſhall then reſide, or ſo many of them as ſuch elector ſhall think proper to vote for, ſeverally written upon the ſame paper ticket, and the ſaid paper ticket ſhall be ſo folded or rolled up and tied, or otherwiſe cloſed, as to conceal the writing thereon. And on receipt of every ballot or ticket for Members of Aſſembly, the Inſpector ſhall cauſe the name of the elector to be written in the books or poll-liſts for Members of Aſſembly, by all the Clerks, and ſhall cauſe the ballot, without ſuffering the ſame to be inſpected, to be put into a box to be provided for the purpoſe of receiving the ballots for Members of Aſſembly, with a ſufficient lock thereto; and which box ſhall be locked and the key thereof be kept during the election by one of the Inſpectors attending ſuch election, to be appointed for the purpoſe by the major part of them; and a ſmall hole ſhall be made in the lid or cover, ſufficient to only to receive each ballot, and through which all the ballots for Members of Aſſembly ſhall be put into the box, and which box ſhall only be opened at the times herein after mentioned.

How the books to be diſpoſed of, on the adjournment of the poll.

*And further*, That on every adjournment of the poll, the Clerks books or poll-liſts for Governor, Lieutenant-Governor, Senators and Members of Aſſembly, or ſuch of them as are then to be choſen, ſhall be carefully compared in the preſence of the Inſpectors, and any miſtakes in either of them ſhall be corrected according to the judgement of a major part of the Inſpectors; whereupon the boxes ſhall be opened, the books or poll-liſts put into them reſpectively, and the boxes then locked with the books or poll-liſts therin, and the keys delivered to ſuch one of the Inſpectors as the majority

majority of them ſhall appoint. And the ſeal or ſeals of one or more of the Inſpectors ſhall be put upon the ſaid boxes, ſo as to cover the holes in the lids thereof. And the boxes ſhall then be delivered to ſuch other one of the Inſpectors attending ſuch election, as a majority of them ſhall direct, who ſhall carefully keep the ſame, and ſhall, without having ſuffered the ſame to be opened, or the ſaid ſeal or ſeals to be broken or removed, deliver the ſame boxes in at the election table at the next opening of the poll, in the preſence of all the ſpectators attending on the ſaid election, when and where the ſeals ſhall be broken, and the boxes opened, and the poll-books or liſts taken out, and the boxes again locked, in order to proceed in the ſaid election; which courſe ſhall be obſerved and purſued until the poll be cloſed.

V. *And be it further enacted by the authority aforeſaid*, That whenever any perſon ſhall preſent himſelf to give his vote or ballot at any ſuch election as aforeſaid, as a freeholder qualified by the conſtitution of this State to vote for a Governor, or Lieutenant-Governor, and either of the Inſpectors ſhall ſuſpect, or any other perſon entitled to vote at ſuch election, ſhall challenge him to be unqualified for the purpoſe, the Inſpectors ſhall tender and adminiſter to him the following oath, to wit:

Suſpected Electors to take an oath.

" I ———, do ſolemnly and ſincerely ſwear and declare in the preſence of Al-
" mighty God, that I am poſſeſſed of a freehold in my own right (or in the right
" of my wife as the caſe may be) of the value of one hundred pounds, within this
" State, over and above all debts charged thereon; and that I am an actual reſident of
" the ward, town, manor, diſtrict or precinct of ———, in the county of ———,
" (as the caſe may be) and have not been before polled in any part of this State at
" this election."

Form of the oath in election of Governor, &c.

And that whenever any perſon ſhall preſent himſelf to give his vote for Senators, and either of the Inſpectors ſhall ſuſpect, or any perſon entitled to vote at ſuch election, ſhall challenge him to be unqualified for the purpoſe, the Inſpectors ſhall tender and adminiſter to him the following oath, to wit:

" I ———, do ſolemnly and ſincerely ſwear and declare in the preſence of Al-
" mighty God, that I am poſſeſſed of a freehold in my own right (or in the right of
" my wife as the caſe may be) of the value of one hundred pounds, within the
" county of ———, in the ——— diſtrict (as deſignated by the conſtitution of
" this State) over and above all debts charged threon; and that I am actually
" reſident of the ward, town, manor, diſtrict, or precinct of ———, in this county
" (as the caſe may be) and have not been before polled in any part of this State, at
" at this election."

Of Senators.

And that whenever any man ſhall preſent himſelf to give his vote or ballot for Members of Aſſembly only, and either of the ſaid Inſpectors ſhall ſuſpect, or any perſon preſent and entitled to vote at ſuch election, ſhall challenge him to be unqualified for the purpoſe, the Inſpectors ſhall tender and adminiſter to him the following oath, viz:

" I ——, do ſolemnly and ſincerely ſwear and declare, in the preſence of Almighty God,
" that I am and have been for ſix months next and immediately preceding this election, a
" freeholder, and poſſeſſed of a freehold in my own right (or in my wife's right, as the
" caſe may be) of the value of twenty pounds, in the county of ——, or have for ſix
" months next and immediately preceding this election, rented a tenement of the yearly
" value of forty ſhillings, within the county of ——, and have been rated, and actually
" paid taxes to this State; and that I now am an actual reſident of the ward, town,
" manor, diſtrict, or precinct of ——, (as the caſe may be) and that I have not been
" polled before in any part of the ſaid county, at this election." And in caſe the Elector ſhall refuſe to take the ſaid oath, when ſo tendered to him as aforeſaid, he ſhall loſe his vote at the ſaid election.

Of Members of Aſſembly.

Penalty for refuſing to take the oath.

*Provided nevertheleſs*, That nothing herein before contained ſhall be conſtrued to deprive the perſons who were freemen of the city of New-York, on the fourteenth day of October, in the year of our Lord one thouſand ſeven hundred and ſeventy-five, or freemen of the city of Albany, on the twentieth day of April, in the year of our Lord one thouſand ſeven hundred and ſeventy-ſeven, and who ſhall be actually and uſually reſident in the ſaid cities reſpectively, and who may refuſe to take the oath laſt above contained, of the right of voting for Repreſentatives in Aſſembly in the ſaid cities, reſerved to them by the ſeventh article of the conſtitution of this State. *Pro-*

Proviſo.

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Further Proviſo.

*Provided alſo*, That whenever any man ſhall preſent himſelf to give his vote or ballot as a freeman of the ſaid city of New-York, or city of Albany, for Repreſentatives in Aſſembly, and either of the Inſpectors ſhall ſuſpect him to be unqualified for the purpoſe, they ſhall tender to him the following oath, to wit.

Oath to be tendered to ſuſpected freemen of the cities of New-York and Albany.

" I —— ——, do ſolemnly and ſincerely ſwear and declare, in the preſence of " Almighty God, that I now am and was a freeman of the city of New-York, before " the fifteenth day of October, in the year of our Lord one thouſand ſeven hundred and " ſeventy-five, or a freeman of the city of Albany, before the twenty-firſt day of April, " in the year of our Lord one thouſand ſeven hundred and ſeventy-ſeven, (as the caſe " may be) and that I now am an actual reſident in —— ward of the city of New-York " (or Albany, as the caſe may be) and that I have not been polled before at this election, " in any part of this State." And in caſe ſuch Elector ſhall refuſe to make ſuch oath, when tendered to him as aforeſaid, he ſhall loſe his vote at the ſaid election.

VII. *And be it further enacted by the authority aforeſaid*, That at every ſuch election, the Inſpector ſhall tender and adminiſter to each Elector preſenting himſelf to vote at ſuch election, if any or either of them ſhall ſuſpect that ſuch Elector is not well affected to the government of this State, the following oath, to wit.

Oath of abjuration and allegiance, to whom it may be tendered.

" I —— ——, do ſolemnly, without any mental reſervation or equivocation what- " ever, ſwear and declare, and call God to witneſs, that I do abjure and renounce all " allegiance and ſubjection to the King of Great-Britain, and to all and every " other foreign King, Prince, Potentate, and State whatſoever; and that I will bear " true faith and allegiance to the State of New-York, as a free and independent State; " and that I will, in all things, to the beſt of my knowledge and ability, do my duty " as a good and faithful citizen of the ſaid State ought to do." And if any Elector ſhall refuſe to take the ſaid oath, when tendered to him as aforeſaid, he ſhall not be permitted to vote at ſuch election. And if at any ſuch election the Inſpector ſhall receive the vote or ballot of any Elector who, upon being tendered the ſaid oath, ſhall refuſe to take the ſame, the perſon or perſons ſo offending ſhall, for each offence, forfeit the ſum of five pounds, to any perſon who will ſue for the ſame, to be recovered with coſts. And further, it ſhall and may be lawful for the Inſpectors at any ſuch election, and they are hereby required to adminiſter the ſaid oath to any Elector who ſhall voluntarily offer to take the ſame.

Poll-books, &c. at the cloſe of elections, to be delivered to the Sheriffs.

VIII. *And be it further enacted by the authority aforeſaid*, That on cloſing the poll at every ſuch election the poll-books or liſts for Governor, Lieutenant-Governor, and Senators, or ſuch of them as were to be choſen at ſuch election, ſhall, after due examination and correction therof, be ſigned by the Inſpectors attending the cloſing of the poll, and Clerks who ſhall have kept the ſame poll-books, or liſts reſpectively; and and the box containing the ballots or tickets for Governor, Lieutenant-Governor and Senators, or ſuch of them as were to be choſen at ſuch election, ſhall then be opened, and the ballots or tickets contained therein, be taken out, and without being inſpected, ſhall, together with the poll-books or liſts, be immediately put up under cover and encloſed, and the incloſure bound with tape,, and ſealed in ſuch manner as to prevent its being opened without diſcovery; and the Inſpectors preſent at cloſing the poll ſhall then put their ſeals and write their names upon the ſame incloſure, and one of the Inſpectors then preſent, to be appointed for that purpoſe by a majority of them, ſhall deliver the ſame incloſure, ſo ſealed up as aforeſaid, to the Sheriff of the county, without delay.

Poll-liſts, &c. for Members of Aſſembly, to be delivered to the County Clerk.

*And further*, That the poll-books, or liſts for Members of Aſſembly, ſhall on cloſing the poll, at every ſuch election, after due examination and correction, be ſigned by the Inſpectors attending at the cloſing of the poll, and the Clerks who ſhall have kept the ſame poll-books or liſts reſpectively; and then the box containing the ballots or tickets for Members of Aſſembly ſhall be opened, and the ballots or tickets contained therein taken out, and without being inſpected, ſhall, together with the poll-books or liſts for Members of Aſſembly, be immediately put up under cover and encloſed, and the encloſure bound with tape, and ſealed in ſuch manner as to prevent its being opened without diſcovery: And the inſpectors preſent at cloſing the poll ſhall then put their ſeals and write their names upon the ſame Incloſure, and one of

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the Inſpectors then preſent, to be appointed for that purpoſe by a majority of them, ſhall deliver the ſame incloſure, ſo ſealed up as aforeſaid, to the Clerk of the county, without delay, who ſhall carefully preſerve and keep the ſame unbroken and unopened, until the meeting of the perſons appointed to canvaſs and eſtimate the ballots therein contained, when he ſhall deliver the ſame encloſure unbroken and unopened to them.

Sheriffs duty.

IX. *And be it further enacted by the authority aforeſaid*, That each and every Sheriff of the reſpective counties in this State, ſhall, upon receiving the ſaid encloſures directed to be delivered to them as aforeſaid, without opening or inſpecting the ſame, or any or either of them; put the ſaid encloſures, and every of them into one box, which ſhall be well cloſed and ſealed up by him, under his hand and ſeal, with the name of his county wrote on the box, and be delivered by him, without opening the ſame or the incloſures therein contained, into the office of the Secretrary of this State, before the laſt Tueſday of May in every year, where the ſame ſhall be ſafely kept by the Secretary of this State, or his Deputy, unbroken and unopened, until the meeting of the perſons appointed to canvaſs and eſtimate the ballots therein contained, when he ſhall deliver all the ſaid boxes unbroken and unopened to them.

Secretary's duty.

Joint Committee to be annually appointed, and their duty.

X. *And be it further enacted by the authority aforeſaid*, That a joint Committee ſhall be appointed yearly and every year, to canvaſs and eſtimate the votes for Governor, Lieutenant-Governor, and Senators, or ſuch of them as are then to be choſen, which Committee ſhall conſiſt of twelve members, that is to ſay, ſix to be appointed by the Senate out of their body, and ſix to be appointed by the Aſſembly out of their body; and ſuch Committee ſhall be annually appointed by reſolutions of each body reſpectively, and ſhall meet at the Office of the Secretary of this State, on the laſt Tueſday of May; at which meeting the ſaid joint Committee, or the major part of them, or the ſurvivors of them, or the major part of ſuch ſurvivors, ſhall on the ſaid day, and on ſo many days next ſucceeding thereto, as ſhall be neceſſary for the purpoſe, proceed to open the ſaid boxes one after the other, and the incloſures therein contained, reſpectively, and canvaſs and eſtimate the votes therein contained. And if the number of ballots in any incloſure ſhall exceed the number of Electors contained on the poll liſts in the ſame incloſure, then the ſaid joint Committee, or other perſons appointed to canvaſs ſuch ballots, ſhall proceed to draw out and deſtroy unopened, ſo many of the ſaid ballots, as ſhall amount to the exceſs, and ſhall proceed to canvaſs and eſtimate the reſidue: And when and as ſoon as they ſhall be able to determine upon ſuch canvaſs and eſtimate, who by the greateſt number of votes ſhall have been choſen for a Governor, if a Governor was to be choſen, and who by the greateſt number of votes ſhall have been choſen for Lieutenant-Governor, if a Lieutenant-Governor was to be choſen; and who by the greateſt number of votes ſhall have been choſen for Senators; and within fourteen days, next after the ſaid laſt Tueſday in May, the ſaid joint Committee, or the major part of them, or the ſurvivors of them, or the major part of ſuch ſurvivors, or other perſons appointed to canvaſs ſuch ballots, ſhall determine the ſame; and thereupon, without delay, make and ſubſcribe with their own proper names and hand writing a certificate of ſuch determination, in a book to be kept for that purpoſe in the ſaid Secretary's Office, there to remain of record and without delay deliver or cauſe to be delivered a true copy thereof, ſo ſubſcribed as aforeſaid, to each of the perſons ſo elected reſpectively, and to the perſon adminiſtering the government of the State for the time being, and another copy thereof ſubſcribed as aforeſaid unto the Senate, on the firſt Monday in July in every year, or at the next meeting of the Legiſlature thereafter. And when a Governor, or Lieutenant-Governor, ſhall be to be choſen, the ſaid joint Committee, or the major part of them, or the ſurvivors of them, or the major part of ſuch ſurvivors, or other perſons appointed to canvaſs ſuch ballots, ſhall alſo cauſe true copies thereof, ſubſcribed as aforeſaid, to be publiſhed in at leaſt three of the public newſpapers printed in this State. And when at any election a Senator is to be choſen in the room of one dead or removed from office, the ſaid joint Committee, or the major part of them, or the ſurvivors of them, or the major part of ſuch ſurvivors, or other perſons appointed to canvaſs ſuch ballots, ſhall alſo, upon the ſaid canvaſs and eſtimate determine and certify in the manner aforeſaid which

Their time and place of meeting.

Mode of canvaſſing by ſaid Joint Committee, and manner of notifying the perſons elected.

of the perſons choſen for Senator, at ſuch election is elected in the room of the perſon deceaſed or removed from office; and in order to enable them to determine the ſame, it is hereby declared, that when a Senator is to be choſen in the room of one dead or removed from office, and any Elector does not on his ballot deſignate who he votes for as Senator in the room of the perſon deceaſed or removed from office; then the perſon laſt named on the ballot ſhall be taken to be voted for in the room of the perſon deceaſed or removed from office if the Elector votes for the full number of Senators then to be choſen; but if he does not vote for the full number, then it ſhall be ſuppoſed that he did not mean to vote for any perſon in the room of the perſon deceaſed or removed from office; and ſo in all caſes where more than one Senator is to be choſen in the room of others either dead or removed from office, the laſt perſon named on the ballot ſhall be ſuppoſed to be voted for in the room of the perſon whoſe time of continuance in office was neareſt expiring at the time of his death or removal from office, and the laſt but one in the room of the next, and ſo on, unleſs otherwiſe diſtinguiſhed on the ballot.

Poll-books, &c. when and how diſpoſed of.

*And further*, That immediately upon making ſuch determination as aforeſaid, all the poll-books, or liſts and ballots, or tickets for Governor, Lieutenant-Governor, and Senators, and for each and every of them, ſhall be deſtroyed by the ſaid joint Committe.

Secretary's duty in caſes of non attendance of Committee.

*And further*, That in caſe no ſuch Committee ſhould be appointed, or if ſuch Committe ſhould not meet as aforeſaid on the laſt Tueſday in May in any year, then it ſhall be the duty of the Secretary of this State for the time being, to give notice thereof on the ſaid laſt Tueſday in May, or within four days thereafter, to the Chancellor and the Juſtices of the Supreme Court of this State for the time being; and the Chancellor and Juſtices of the Supreme Court: or the major part of them ſhall be, and hereby are in ſuch caſe authoriſed and required to meet at the office of the Secretary of this State on the ſecond Tueſday in June in the ſame year, and on that day, and on ſo many days next ſucceding thereto as ſhall be neceſſary for the purpoſe, canvaſs and eſtimate the ſaid votes, and do, execute and perform, all and every thing and things in and about the premiſes, in the ſame manner as ſuch joint Committee might or ought to have done. And moreover, when a majority of the ſaid joint Committe, or a majority of the ſurvivors of them, or the major part of the ſaid Chancellor and Juſtices of the Supreme Court ſhall meet as aforeſaid, for the purpoſe of canvaſſing and eſtimating the votes for Governor, Lieutenant-Governor, and Senators, or for any of them, ſuch majority ſhall be and hereby are authoriſed, empowered and required to proceed to ſuch canvaſs and eſtimate; and all queſtions which ſhall ariſe upon ſuch canvaſs and eſtimate, or upon any of the proceedings therein, ſhall be determined according to the opinion of the major part of the perſons ſo met, conformable to this act, and their judgment and determination ſhall in all caſes, be binding and concluſive.

Chancellor and Judges duty in ſuch caſe.

A majority of the perſons appointed to canvaſs, empowered to act.

Officers elected, when to enter on duty.

*And further*, That the Governor and Lieutenant-Governor ſo elected, having ſeverally taken their reſpective oaths of office, ſhall ſeverally enter upon the execution of their reſpective offices on the firſt day of July then next enſuing; and that the Senators ſo elected ſhall reſpectively give their attendance and take their reſpective ſeats in Senate, on the firſt Monday of July in every year, or at the next meeting of the Legiſlature thereafter.

Canvaſſers, before they proceed to buſineſs, to take an oath.

XI. *And be it further enacted by the authority aforeſaid*, That the ſaid joint Committee, and the Chancellor and Juſtices of the Supreme Court, or ſuch of them as ſhall attend to make ſuch canvaſs and eſtimate as aforeſaid, before they proceed to open any of the boxes delivered by the Sheriffs as aforeſaid, ſhall ſeverally take and ſubſcribe, before the Secretary of this State, or his ſworn Deputy, or a Maſter in Chancery, the following oath, to wit:

The form of the oath.

" I ———, appointed by the Senate or Aſſembly, (as the caſe may be) to canvaſs " and eſtimate the votes for Governor, Lieutenant-Governor and Senators, or for " Lieutenant-Governor and Senators, or for Senators, (as the caſe may be,) taken at " the laſt election held within this State:" or, " I ———, Chancellor or one of " the Juſtices of the Supreme Court of the State of New-York, (as the caſe may be,) " do ſolemnly and ſincerely ſwear and declare, in the preſence of Almighty God, that

" I

" I will faithfully, honeſtly, and impartially canvaſs and eſtimate the votes for " Governor, Lieutenant-Governor, and Senators, or for Lieutenant-Governor, and " Senators, or for Senators, as the caſe may be, contained in the boxes delivered into " the office of the Secretary of this State by the Sheriffs of the ſeveral counties: and " that I will publiſh and declare the perſon who hath the greateſt number of votes for " Governor (if a Governor was to be choſen at ſuch election) to be elected to the ſaid " office of Governor, and the perſon who hath the greateſt number of votes for Lieu- " tenant-Governor (if any was to be choſen at ſuch election) to be elected to the ſaid " office of Lieutenant-Governor; and the perſons who have the greateſt number of " votes for Senators, to be elected to the ſaid office of Senators reſpectively; and if I " ſhall diſcover any of the other perſons appointed a Committee with me, (or who " ſhall attend with me) for the purpoſe aforeſaid, conducting himſelf or themſelves " partially, unduly or corruptly in the premiſes, that I will divulge and diſcover the " ſame, to the end that the perſon ſo offending may be brought to juſtice." Which oath ſhall be entered of record by the Secretary or his Deputy, in the ſame book in which the certificate of the determination upon ſuch canvaſs and eſtimate is to be entered as aforeſaid.

Oath to be recorded.

XII. *And be it further enacted by the authority aforeſaid*, That the Mayor, Recorder, and Aldermen of the city of New-York for the time being, or the major part of them, ſhall be, and hereby are authoriſed and required to canvaſs and eſtimate the votes for Members of Aſſembly for the ſaid city and county of New-York, and ſhall yearly meet together for that purpoſe, at the city-hall of the city of New-York, on the laſt Tueſday in May in every year, and on that day, and on ſo many days next ſucceeding thereto, as ſhall be neceſſary for the purpoſe, proceed to open the ſaid incloſures delivered to the Clerk of the ſaid city, and canvaſs and eſtimate the votes therein contained; and when and as ſoon as they ſhall be able to determine upon ſuch canvaſs and eſtimate, who by the greateſt number of votes ſhall have been choſen for Members of Aſſembly for the ſaid city and county of New-York, at the laſt preceding election, and within fourteen days after the ſaid laſt Tueſday of May, they ſhall determine the ſame, and thereupon, without delay, make and ſubſcribe, with their own proper names and hand-writing, a certificate of ſuch determination in a book to be kept for that purpoſe in the office of the Clerk of the City of New-York, there to remain of record, and without delay deliver, or cauſe to be delivered a true copy thereof ſo ſubſcribed as aforeſaid, to each of the perſons ſo elected reſpectively, and to the perſon adminiſtering the government of this State for the time being; and ſhall alſo deliver or cauſe to be delivered, another copy thereof ſo ſubſcribed as aforeſaid, unto the Aſſembly on the firſt Monday of July in every year, or at the next meeting of the Legiſlature thereafter, and immediately upon making ſuch determination as aforeſaid, all the poll-books, or liſts and ballots, or tickets for Members of Aſſembly for the ſame city and county, ſhall be deſtroyed by the ſaid Mayor, Recorder, and Aldermen, or by ſome or one of them.

Time and place of Canvaſſers meeting in New-York.

XIII. *And be it further enacted by the authority aforeſaid*, That the Superviſors of each and every of the other counties of this State for the time being reſpectively, or the major part of them, ſhall be, and hereby are authoriſed and required to convaſs and eſtimate the votes for Members of Aſſembly for their reſpective counties. And the Superviſors of each reſpective county for the time being, or the major part of them ſhall yearly meet together for that purpoſe, on the laſt Tueſday of May in every year at the court-houſe in the ſame county, if there be any, and if not, or if there be more than one court-houſe in ſuch county, then at the houſe or place where the then laſt Court of Seſſions of the Peace for the ſame county was held; and on that day, and on ſo many days next ſucceeding thereto as ſhall be neceſſary for the purpoſe, proceed to open the ſaid incloſures delivered to the Clerk of the ſaid county as aforeſaid, and canvaſs and eſtimate the ſaid votes therein contained; and when and as ſoon as they ſhall be able to determine upon ſuch canvaſs and eſtimate, who by the greateſt number of votes ſhall have been choſen for Members of Aſſembly for the ſame county, at the laſt preceding election, and within fourteen days after the ſaid laſt Tueſday of May, they ſhall determine the ſame, and thereupon, without delay, make and ſubſcribe with their own proper names and hand writing, a certificate of ſuch determination, in a book to be kept for

County Superviſors to canvaſs the votes for Members of Aſſembly.

for that purpoſe in the office of the Clerk of the ſame county, there to remain of record, and without delay deliver, or cauſe to be delivered, a true copy thereof, ſo ſubſcribed as aforeſaid, to each of the perſons ſo elected reſpectively, and to the perſon adminiſtering the government of this State for the time being: And ſhall alſo deliver, or cauſe to be delivered, another copy thereof, ſo ſubſcribed as aforeſaid, unto the Aſſembly, on the firſt Monday of July in every year, or at the firſt meeting of the Legiſlature thereafter. And immediately upon making ſuch determination as aforeſaid, all the poll-books or liſts, and ballots or tickets for Members of Aſſembly for the ſame county, ſhall be deſtroyed by the ſaid Superviſors, or by ſome or one of them.

After determination, poll-book, &c. to be deſtroyed.

XIV. *And be it further enacted by the authority aforeſaid*, That in caſe the Superviſors for the time being of any county, or a majority of them, ſhall not meet as aforeſaid on the laſt Tueſday of May in any year, then the Clerk of ſuch County ſhall on the ſaid laſt Tueſday of May, or within three days thereafter, give notice thereof to the Judges and aſſiſtant Juſtices of the Court of Common Pleas for the time being, in the ſame county, and the ſame Judges and Juſtices, or the major part of them, ſhall be, and hereby are in ſuch caſe authoriſed and required to meet together on the ſecond Tueſday in June in the ſame year, at the ſame place where the Superviſors ought to have met, and on that day, and on ſo many days next ſucceeding thereto as ſhall be neceſſary for the purpoſe, canvaſs and eſtimate the votes for Members of Aſſembly for the ſame county, and do, execute and perform all and every thing and things in and about the premiſes, in the ſame manner as the Superviſors of the ſame county, or the major part of them might or ought to have done.

Clerks duty on non-attendance of Superviſors.

VI. *And be it further enacted by the authority aforeſaid*, That if the number of ballots for Members of Aſſembly in any incloſure, ſhall exceed the number of Electors mentioned on the poll-liſts, contained in the ſame incloſure, then the ſaid Superviſors or other perſons appointed to canvaſs ſuch ballots, ſhall proceed to draw out and deſtroy unopened ſo many of the ſaid ballots as ſhall amount to the exceſs, and ſhall proceed to canvaſs and eſtimate the reſidue; and if two or more ballots or tickets ſhall be found folded or rolled up together, none of the ballots ſo folded or rolled up together, ſhall be eſtimated.

When the number of ballots exceed that of the Electors, the exceſs how to be diſpoſed of.

XV. *And be it further enacted by the authority aforeſaid*, That when a majority of the ſaid Mayor, Recorder, and Aldermen of the city of New-York, or a majority of the Superviſors of any county, or the major part of the Judges and Aſſiſtant Juſtices of the Court of Common Pleas of any county, ſhall meet as aforeſaid, for the purpoſe of canvaſſing and eſtimating the votes for members of Aſſembly as aforeſaid, ſuch majority ſhall be and hereby are authoriſed, empowered, and required to proceed to ſuch canvaſs and eſtimate, and all queſtions which ſhall ariſe upon ſuch canvaſs and eſtimate, or upon any of the proceedings therein, ſhall be determined according to the opinion of the major part of the perſons ſo met, and their judgment and determination ſhall in all caſes be binding and concluſive.

A majority of the Superviſors, when met, empowered to proceed to the canvaſs.

XVII. *And be it further enacted by the authority aforeſaid*, That the Members of Aſſembly ſo elected, ſhall reſpectively give their attendance, and take their reſpective ſeats in Aſſembly, on the firſt Monday of July in every year, or at the next meeting of the Legiſlature thereafter.

Perſons elected for Members of Aſſembly, when to take their ſeats.

XVIII. *And be it further enacted by the authority aforeſaid*, That the Mayor, Recorder, and Aldermen of the city of New-York, or ſuch of them as ſhall make ſuch canvaſs and eſtimate, as aforeſaid, and the Superviſors and Judges, and Aſſiſtant Juſtices of the Court of Common Pleas of each of the other counties of this State, or ſuch of them as ſhall make ſuch canvaſs and eſtimate as aforeſaid, ſhall, before they proceed to open any of the encloſures containing the ballots for Members of Aſſembly, ſeverally take and ſubſcribe the following oath, to wit:

Canvaſſers of ballots to take an oath.

Form of the oath.

" I —— ——, Mayor, or Recorder, or one of the Aldermen of the city of New-
" York, or Superviſor of ———, in the county of ———, or one of the Judges, or
" one of the Aſſiſtant Juſtices of the Court of Common Pleas in the county of ——,
" do ſolemnly and ſincerely declare and ſwear, in the preſence of Almighty God, that
" I will faithfully, honeſtly, and impartially, canvaſs and eſtimate the votes for
" Members of Aſſembly for the city and county of New-York, (or for the county of
" ———,) contained in the incloſures delivered into the office of the Clerk of the
ſame

" ſame city (or county) and that I will publiſh and declare the perſons who have the " greateſt number of votes for Members of Aſſembly to be ſeverally elected to the ſaid " office reſpectively; and that if I ſhall diſcover any of the other perſons who ſhall " attend with me for the purpoſe aforeſaid, conducting or demeaning himſelf or them- " ſelves partially, unduly or corruptly in the premiſes, that I will divulge or diſcover " the ſame; to the end that the perſon ſo offending may be brought to juſtice."

Which oath ſhall be taken by the ſaid Mayor, Recorder, and Aldermen of the city of New-York, before the Clerk of the ſame city, or either of the Juſtices of the Supreme Court, or a Maſter in Chancery, and ſhall be entered of record by the Clerk of the ſame city in the ſame book where the certificate of their determination is to be entered as aforeſaid; and the ſaid oath ſhall be taken by the Superviſors, or Judges, and aſſiſtant Juſtices of the Court of Common Pleas in each of the other counties reſpectively, before the Clerk or any Juſtice of the Peace of the ſame county, and ſhall be entered of record by the Clerk of the ſame county, in the ſame book where the certificate of their determination is to be entered as aforeſaid.

Which oath, when taken, to be recorded.

XIX. *And be it further enacted by the authority aforeſaid*, That if any or either of the ſaid Joint Committee, or the Chancellor, or any or either of the Juſtices of the Supreme Court, or the Mayor, or Recorder, or any or either of the Aldermen of the city of New-York, or any or either of the Superviſors, or Judges, or Aſſiſtant Juſtices of the Court of Common Pleas in any county, or any Inſpector, ſhall be guilty of any partial, or corrupt, or undue conduct or behaviour in the buſineſs by this act committed to them, and be thereof convicted, he and they, and every of them ſo convicted, ſhall ſuffer the ſame pains and penalties, as in caſes of wilful and corrupt perjury; and ſhall from and after ſuch conviction, be utterly diſabled and diſqualified to hold or enjoy any place or office in this State; any pardon that may be iſſued by the perſon adminiſtering the Government of this State to the contrary hereof in any wiſe notwithſtanding.

Penalty on Canvaſſers for mal conduct.

XX. *And be it further enacted by the authority aforeſaid*, That if any or either of the ſaid Joint Committee, or the Chancellor, or any or either of the Juſtices of the Supreme Court, or the Mayor, or Recorder, or any or either of the Aldermen of the city of New-York, or any or either of the Superviſors, or Judges, or Aſſiſtant Juſtices of the Court of Common Pleas in any county, or any Inſpector, Sheriff, or Clerk, ſhall wilfully neglect to perform the duties reſpectively required of them by this act, or ſhall be guilty of any corrupt miſbehaviour in any matter or thing in or relating to the buſineſs committed to them reſpectively by this act, and be thereof convicted, he, they, and every of them ſo offending and convicted, ſhall forfeit and pay for every ſuch offence the ſum of two hundred pounds, to be recovered by action of debt, bill, plaint, or information, in any Court of Record, the one moiety thereof to the uſe of any perſon who ſhall proſecute for the ſame, and the other moiety thereof to the uſe of the People of this State. And if the proſecutor in any ſuch ſuit ſhall prevail, he ſhall likewiſe have judgment for and recover his coſts of ſuit againſt the perſon convicted. But if the perſon ſo proceeded againſt ſhall be acquitted, he ſhall recover double coſts againſt the proſecutor; and no proceſs ſhall iſſue to bring in the party accuſed, until bond be filed in the office of the Clerk of the court out of which ſuch proceſs ſhall iſſue, in the penalty of two hundred pounds, with two ſufficient freeholders as ſureties, ſuch as the Court ſhall approve, to ſecure the defendant double coſts, to become due on a diſcontinuance, withdrawing of the ſuit, or an acquittal, or neglect to bring the ſame to trial within five terms after the appearance of the defendant to anſwer the ſame.

Penalty for neglect of duty.

Penalty how recovered & applied.

XXI. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall be guilty of any diſorderly conduct at any ſuch election for Governor, Lieutenant-Governor, Senators and Members of Aſſembly, or any of them, or of uſing any indirect, ſiniſter, or corrupt means to influence any Elector or Electors, in giving in his or their ballots, the major part of the Inſpectors at ſuch election are hereby authoriſed, empowered, and required to commit the offender to the gaol of the county, there to remain committed, for a ſpace not exceeding thirty days; and all Sheriffs, Under-Sheriffs, Conſtables, and Gaolers, are hereby ſtrictly charged, commanded, and required to aid and obey the Inſpectors herein.

Inſpectors impowered to impriſon perſons for diſorderly conduct at an election.

Perſons guilty of bribery or corruption, to forfeit 300l.

XXII. *And be it further enacted by the authority aforeſaid,* That whoever ſhall, by bribery, menace, or other corrupt means or device whatſoever, either directly or indirectly, attempt to influence any free Elector of this State, in giving his vote or ballot, or deter him from giving the ſame, at any election within this State, and ſhall thereof be convicted, ſuch perſon ſo offending and convicted, ſhall forfeit and pay for every ſuch offence, the ſum of five hundred pounds, to be ſued for and recovered by any perſon, and in the manner, and under the reſtrictions above preſcribed, in actions to be brought for neglect of duty, or corrupt miſbehaviour; one moiety of which penalty ſhall be recovered to the uſe of the perſon ſueing and proſecuting for the ſame, and the other moiety thereof to the uſe of the People of this State: And on ſuch conviction, the perſon convicted ſhall thenceforth, and forever thereafter, ſtand and be utterly diſabled, diſqualified, and incapacitated to hold, exerciſe, or enjoy any office or place of truſt or profit whatſoever, within this State.

Penalty how to be recovered and applied.

Perſons not qualified to vote.

XXIII. *And be it further enacted by the authority aforeſaid,* That no perſon under the age of twenty-one years, nor any perſon not a citizen of this State, or of one of the United States, ſhall have a right to vote at any election in this State.

Privilege of mortgagers & mortgagees

XXIV. *And be it further enacted by the authority aforeſaid,* That every mortgagor, while he continues in the occupation of the premiſes mortgaged, and every mortgagee of a real eſtate, to him and his heirs, after he obtains poſſeſſion of the mortgaged premiſes, and every perſon poſſeſſed of a freehold in right of his wife, ſhall be deemed and eſteemed a freeholder within the meaning of this act.

Perſons of a certain deſcription diſqualified to hold any office of truſt or profit within this State.

XXV. *And be it further enacted by the authority aforeſaid,* That all and every perſon and perſons, inhabitant and inhabitants, of this State, who at any time after the ninth day of July in the year of our Lord one thouſand ſeven hundred and ſeventy-ſix, and during the late war between the King of Great-Britain and the United-States of America, did voluntarily take up arms with the Britiſh troops, or with the Indians then at war with this State, or any of the United-States; and every perſon or perſons who did within the time aforeſaid, voluntarily take any commiſſion or appointment in the army or navy of the King of Great-Britain, and every perſon and perſons who ſhall have acted as Captain, Lieutenant, or Maſter of any privateer or privateers, or veſſels of war, to cruiſe againſt or commit hoſtilities upon the veſſels, property, or perſons of any of the citizens of this State, or any other of the United-States, ſhall be and hereby is and are declared to be utterly diſabled, diſqualified and incapacitated to hold, exerciſe or enjoy a ſeat in either Houſe of the Legiſlature, or any office or place of truſt, honor or profit whatſoever, within this State.

Proviſo.

*Provided always,* That nothing in this act contained, ſhall be conſtrued to diſqualify perſons who have not been commiſſioned or employed otherwiſe than as officers of the militia, or in doing militia duty during the time aforeſaid.

Further proviſo.

*And provided further,* That nothing in this act contained ſhall be conſtrued to diſqualify any perſon who has been naturalized ſince the ſaid ninth day of July, one thouſand, ſeven hundred and ſeventy-ſix.

Former laws, &c. reſpecting elections, repealed.

XXVI. *And be it further enacted by the authority aforeſaid,* That the act, entitled "an act to regulate elections within this State," and the ſecond ſection of the act entitled, "an act for the better ſecuring the independence of this State, and to that end requiring all public officers and electors within this State, to take the teſt oath therein contained," and the ſecond ſection of the act entitled, "an act to preſerve the freedom and independence of this State, and for other purpoſes therein mentioned; and all laws heretofore made in this State, while the ſame was the colony of New-York, relating to the election of repreſentatives to ſit in General Aſſembly, ſhall be, and hereby are repealed.

CHAP

## CHAP. XVI.

AN ACT *for the more orderly holding of Town Meetings.* Paſſed the 14th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly and it is hereby enacted by the authority of the ſame,* That for the more orderly holding of Town-Meetings, it ſhall be, and is hereby made the duty of the Juſtices of the Peace for the time being, to attend at every town, precinct, and diſtrict meeting, hereafter to be held in and for the town, precinct, or diſtrict in which they reſpectively reſide, and that the ſaid Juſtices of the Peace, or ſuch of them as ſhall attend at ſuch meeting, ſhall preſide at and ſuperintend the ſame, and take care that the buſineſs thereof be orderly and regularly conducted, and ſhall, in caſe of diſpute, determine who have and who have not a right to vote or be elected at ſuch meeting according to law. And if no Juſtice of the Peace ſhall reſide in the town, precinct or diſtrict, at the time of holding ſuch meeting, then the Clerk of the town, precinct, or diſtrict, who was elected at the laſt preceding meeting, ſhall preſide at ſuch meeting, and have and exerciſe all the powers and authorities hereby veſted in the Juſtices.

Juſtices to attend town meetings, and to preſide at the ſame.

Town Clerk's duty, where there is no reſident Juſtice.

II. *And be it further enacted by the authority aforeſaid,* That every male perſon being a citizen of this State, who ſhall be above the age of twenty-one years, and ſhall have reſided in any town, precinct, or diſtrict, ſix months next preceding ſuch town, precinct, or diſtrict meeting, and paid taxes within the ſame, or ſhall be poſſeſſed of a freehold, or ſhall have rented a tenement of the yearly value of forty-ſhillings, for the term of one year within the ſame, ſhall have a right to vote at ſuch meeting, and no other perſon.

Qualifications of Voters.

III. *And be it further enacted by the authority aforeſaid,* That the firſt Tueſday in April in every year hereafter, ſhall be the anniverſary day of holding town-meetings in the ſeveral towns, precincts and diſtricts, in the ſeveral counties of this State; and that no ſuch town meetings ſhall be held longer than two days, and ſhall only be held open between ſun-riſe and ſun-ſet, any law, uſage, or cuſtom to the contrary notwithſtanding.

Time, place, and continuance of town meetings.

## CHAP. XVII.

AN ACT *authoriſing the Sheriff of Queens County, to remove his priſoners from the Gaol in the City and County of New-York; and the Sheriff of Dutcheſs County to remove his Priſoners from the Gaol in Ulſter County.* Paſſed the 14th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Sheriff of Queens county ſhall, on or before the firſt day of April next, remove all his priſoners from the gaol at the city of New-York, to the gaol in Queens county aforeſaid, and there confine them, and every of them, in ſafe cuſtody, until they reſpectively be diſcharged by due courſe of law.

Sheriff of Queens county to remove his priſoners from New-York, &c.

II. *And be it further enacted by the Authority aforeſaid,* That the Sheriff of the county of Dutcheſs ſhall, on or before the firſt day of April next, remove all his priſoners from the gaol in Ulſter county, to the gaol in Dutcheſs county aforeſaid, and there confine them, and every of them, in ſafe cuſtody, until they reſpectively be diſcharged by due courſe of law.

Sheriff of Dutcheſs county to remove his priſoners from Ulſter gaol.

III. *And be it further enacted by the authority aforeſaid,* That neither of the ſaid Sheriffs ſhall be liable to any action or actions of eſcape, or other action at law, for the removing of the ſaid priſoners, or either of them; and that if any action, bill, plaint, ſuit, or information, ſhall be commenced or proſecuted againſt the ſaid Sheriffs, or either of them, for removing the ſaid priſoners, or either of them, in purſuance of this act, it ſhall and may be lawful for ſuch Sheriff to plead the general iſſue, and to give this act,

Sheriffs not liable to actions of eſcape for ſuch removal.

and

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and the ſpecial matter in evidence: And if the plaintiff or proſecutor in any ſuch action, bill, plaint, ſuit, or information, ſhall become non-ſuit, or diſcontinue, or ceaſe to proſecute the ſame, or if a verdict or judgment be given againſt him or her; the defendant ſhall recover double coſts, for which he ſhall have like remedy as in other caſes where coſts by law are given to defendants.

In caſes of eſcapes, Sheriffs liable to action after ſixty days.

IV. *And be it further enacted by the authority aforeſaid,* That in caſe any priſoner or priſoners ſhall eſcape from the cuſtody of either of the ſaid Sheriffs, in the time of his, her, or their removal; and the Sheriff from whom ſuch priſoner or priſoners ſhall eſcape ſhall not retake ſuch priſoner or priſoners, and confine him, her, or them, in the gaol to which he, ſhe, or they ought to be removed by virtue of this act, within ſixty days next after ſuch eſcape made, the ſame Sheriff ſhall be liable to all actions for ſuch eſcape and eſcapes, in the ſame manner as he would have been, if this act had not been made.

Parts of certain acts repealed.

V. *And be it further enacted by the authority aforeſaid,* That ſo much of the act, entitled, "An act relative to the gaols in Suffolk, Kings, Queens, Richmond, and Weſtcheſter counties, and for other purpoſes therein mentioned," as authorizes the Sheriff of Queens county, and the officers and miniſters of Juſtice in and for the ſame county, to commit priſoners to the gaol of the people of this State, in the city and county of New-York; and the act, entitled, "An act enabling the Sheriff and other peace officers of Dutcheſs county, to impriſon and confine certain debtors and criminals in the gaol of Ulſter county, ſhall be, and hereby are, from and after the ſaid firſt day of April next, repealed.

## CHAP. XVIII.

AN ACT *concerning Coroners.* Paſſed the 14th of February, 1787.

Coroners to be appointed.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That in every county of this State, ſufficient men ſhall be appointed to be Coroners of the moſt wiſe and diſcreet men of the ſame county, who know, will, and may beſt attend upon ſuch offices.

Their duty as to perſons ſlain, ſuddenly dead, houſes broke open, treaſure ſaid to be found.

*And further,* that every Coroner upon notice, or being certified by the people of the county, ſhall go to the places where any be ſlain, or ſuddenly dead, or wounded, or where houſes are broken open, or where treaſure is ſaid to be found, and ſhall forthwith command twenty-four good and lawful men of the ſame county to appear before him at ſuch place in the ſame county, as he may find moſt proper and convenient, and ſhall appoint, and when they, or any twelve or more of them ſhall appear, the Coroner ſhall, upon their oath, and upon view of the body, when any is ſlain, or ſuddenly dead, inquire by what means and in what manner, the perſon ſo dead came to his or her death, and whether the perſon ſo dead be known or a ſtranger, and where he or ſhe lay the night before, and if ſuch perſon was ſlain, where and when the ſame perſon was ſlain, and whether it was in any houſe, field, bed, tavern, or company, and who were there, if any, and who were guilty, and in what manner either of the act, or as acceſſary, and who were preſent, either men or women, of what age ſoever they be, if they can ſpeak, or have diſcretion; and ſuch as ſhall be found guilty by inquiſition, in any of the manners aforeſaid, ſhall be taken and delivered to the Sheriff and ſhall be committed to the gaol; and if any perſon ſhall be found dead in the fields or in the woods, it ſhall be inquired, whether he or ſhe was ſlain there or not; and if the body ſo found, were brought and laid there, they ſhall do ſo much as they can to follow the ſteps of thoſe who brought the body thither; and if any perſon be found guilty of murder, the Coroner ſhall immediately go unto his houſe and ſhall inquire how much land he hath, and what it is worth yearly, and what corn he hath upon the ground, and what goods and chattels he hath, and ſhall value the ſame lands, goods and chattels, as if they ſhould be immediately ſold, and thereupon the Coroner ſhall ſeize and be anſwerable for the ſame. And immediately after ſuch inquiry ſhall be made, the bodies of ſuch perſons being ſlain or ſuddenly dead ſhall be buried. And in like manner it is to be inquired

of

of perſons that be drowned or ſuddenly dead, when their bodies be found, whether they were ſo drowned, or ſlain, or ſtrangled, or killed by any other, and what hurt found upon their bodies; whereupon the Coroner and Jury ſhall proceed in manner aforeſaid. And in like manner it is to be inquired of them that die in priſon, or be killed by misfortune. And the Coroner ought alſo to inquire of treaſure that is found, who were the finders; and likewiſe who is ſuſpected thereof; and ſuch as be ſo found may be attached by the Coroner, and bound, with at leaſt two ſureties, to appear before the Juſtices of the next gaol delivery in the ſame county, to anſwer the premiſes.

Perſons appealed of rape.

*And moreover*, If any be appealed of rape, they ſhall be taken and delivered to the Sheriff, and be committed to the gaol, if the appeal be freſh, and there be apparent ſign of truth, by effuſion of blood, or an open cry made. But if there was no cry, nor any manifeſt ſign or token of the truth of the appeal, the defendant ſhall be bound, with two or more ſufficient ſureties to appear before the Juſtices of the next gaol delivery in the ſame county, to anſwer the premiſes. And upon appeals of wounds, and ſuch like, eſpecially if the wounds be mortal, the parties appealed ſhall be taken and delivered to the Sheriff, and ſhall be committed to the gaol, and kept until it be perfectly known whether the perſon hurt ſhall recover or not; and if the perſon hurt die, the defendant ſhall be kept; but if the perſon recover, the defendant may be let to mainprize by one of the Juſtices of the Supreme Court, but by none other. And if the wounds be not mortal, or if the appeal be for a maim, the defendant ſhall be bound with two or more ſureties, to appear before the Juſtices of the next gaol delivery in the ſame county, to anſwer the premiſes.

Appeals of wounds.

And alſo, all wounds ought to be viewed, the length, breadth and depth, and how many wounds there be, and with what weapons they were made, and in what part of the body the wound or hurt is, and who are guilty, and if there be many wounds, who gave each particular wound. And if any be appealed of any act done as principal, they that be appealed as acceſſary, ſhall alſo be taken and ſafely kept in gaol until the principals be attainted or delivered. And if any be ſuſpected of the death of any perſon, or of doing any hurt to any perſon, ſo as to endanger life; ſuch perſon ſo ſuſpected ſhall be taken and impriſoned as aforeſaid; all which things muſt be enrolled in the roll of the Coroners.

Directing *hue and cry*.

And moreover, *hue and cry* ſhall be levied for all murders and burglaries, and for men ſlain, or in peril to be ſlain; and all perſons ſhall follow the hue and cry, and purſue the offenders as near as can be; and he that doth not and is convict thereupon by the record of the Coroner, ſhall be attached to be before the Juſtices of the next gaol delivery in the ſame county, to anſwer the premiſes.

Coroners inquiſitions, &c. how diſpoſed of.

*And further*, That all Coroners ſhall deliver their inquiſitions and rolls, before the Juſtices of the next gaol delivery, in their reſpective counties, and the ſame Juſtices ſhall proceed thereupon againſt the offenders, if they be in gaol, and if not, the ſame Juſtices ſhall deliver the ſame inquiſitions and rolls into the Supreme Court, there to be proceeded upon according to law.

Coroners duty in caſes of murder or manſlaughter.

II. *And be it further enacted by the authority aforeſaid*, That every Coroner, upon any inquiſition before him found, whereby any perſon or perſons ſhall be indicted for murder or manſlaughter, or as acceſſary or acceſſaries to the ſame, before the murder or manſlaughter committed, ſhall put in writing the effect of the evidence given to the Jury before him, being material; and every ſuch Coroner is hereby authoriſed and required to bind all ſuch by recognizance as do declare any thing material to prove the ſaid murder or manſlaughter, or to prove any perſon or perſons to be acceſſary or acceſſaries to the ſame, to appear at the next Gaol Delivery to be holden within the county or city where the trial thereof ſhall be, then and there to give evidence againſt the party ſo indicted, at the time of his or her trial; and ſhall certify as well the ſame evidence, as ſuch recognizance and recognizances in writing, as he ſhall take, together with the inquiſition or indictment before him taken and found, to the ſame court, at or before the time of the trial of the party ſo indicted.

Delinquency how puniſhed.

And in caſe any Coroner ſhall be remiſs, and do not take inquiſition as aforeſaid, or do not certify as is before ordained, or ſhall offend in any thing contrary to the true intent and meaning of this act, the Juſtices of Gaol Delivery of the county or city where ſuch offence ſhall be committed, upon due proof thereof, by examination before them, ſhall, for every ſuch offence, ſet ſuch fine

upon every of the ſame Coroners, as the ſame Juſtices of Gaol Delivery ſhall think meet, and eſtreat the ſame as other fines and amerciaments aſſeſſed before Juſtices of Gaol Delivery ought to be eſtreated.

Where the return of one Coroner ſhall be valid.

III. *And be it further enacted by the authority aforeſaid,* That any return made and ſigned by any one of the Coroners for the time being, in any of the counties of this State, to any future proceſs, except proceſs for ſummoning Juries, which ſhall iſſue from and out of any Court of Record in this State, directed to the Coroners of the ſaid Counties reſpectively, ſhall, and is hereby declared to be as good and valid in law, to all intents, conſtructions, and purpoſes, as if ſuch return was made and ſigned by all the Coroners of the ſaid counties reſpectively; but the act or return of any one or more of the Coroners, ſhall in no degree prejudice the reſt.

## CHAP. XIX.

AN ACT *concerning Executors and Adminiſtrators.* Paſſed the 14th of February, 1787.

Privilege of Executors.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That from henceforth Executors ſhall have a writ of account and the ſame action and proceſs in the ſame writ, as the teſtator might have had if he had lived.

To have action againſt treſpaſſers, &c.

II. *And be it further enacted by the authority aforeſaid,* That Executors ſhall and may have an action for a treſpaſs done to their teſtator, as of the goods and chattels of the ſame teſtator carried away in his life time, againſt the treſpaſſers, and recover their damages in like manner as the perſon whoſe executors they be, ſhould have had, if he or ſhe were in life. And where any teſtator or inteſtate ſhall in his life time have taken or carried away, or converted to his or her uſe, the goods or chattels of any perſon or perſons, ſuch perſon or perſons, his or her executors or adminiſtrators, ſhall have and maintain the ſame action againſt the executors or adminiſtrators of ſuch teſtator or inteſtate, as he, ſhe, or they might have had or maintained againſt ſuch teſtator or inteſtate, and ſhall have the like remedy and proceſs for the damages recovered in ſuch action, as are now had and allowed in other actions againſt executors or adminiſtrators.

In actions againſt divers Executors, they to be conſidered as one perſon.

III. *And be it further enacted by the authority aforeſaid,* That in actions againſt divers executors, all the ſame executors ſhall be conſidered as one perſon, repreſenting the perſon of the teſtator; and although the Sheriff anſwer at the ſummons that ſome of them have nothing whereby he, ſhe, or they may be ſummoned; yet there ſhall be an attachment awarded upon him, her, or them; and if the Sheriff anſwer, that he, ſhe, or they have nothing whereby he, ſhe, or they may be attached, the great diſtreſs ſhall be awarded, and he, ſhe, or they that do firſt appear in the court, ſhall anſwer to the plaintiff; and in caſe judgment ſhall paſs for the plaintiff, he or ſhe ſhall have his or her judgment and execution againſt him, her, or them that have appeared, according to the law heretofore uſed, and againſt all others named in the writ, of the goods of the teſtator, as well as if they had all appeared. *But it is to be underſtood,* That if any, in ſuch caſe, will ſue according to the law that hath been antiently uſed, he or ſhe may freely do it notwithſtanding this ſtatute.

Executors of Executors to have actions of debt, &c.

IV. *And be it further enacted by the authority aforeſaid,* That executors of executors ſhall have actions of debt, account, and of goods carried away, of the firſt teſtator, and execution of judgments obtained by or recognizances made to the firſt teſtator, in any Court of Record, in the ſame manner as the firſt teſtator ſhould have had if he were in life, as well of actions of the time paſt as of the time to come: And that the ſame executors of executors, ſhall anſwer to others, of as much as they have recovered of the goods of the firſt teſtator, as the firſt executors ſhould do if they were in full life.

Who are to be Adminiſtrators to Inteſtates.

V. *And be it further enacted by the authority aforeſaid,* That where any perſon dieth inteſtate, the widow, or next of kin, or any of them, of the deceaſed perſon, if they, or either of them, will accept the ſame; and if not, ſome other proper perſon

perſon or perſons, ſhall be deputed to adminiſter the goods of the inteſtate; and that ſuch adminiſtrators ſhall have actions to demand and recover as executors, the debts due to the ſaid perſon inteſtate, and ſhall anſwer to others to whom the inteſtate was holden and bound, in the ſame manner as executors ſhall anſwer, and ſhall be accountable as executors be, in caſe of teſtament, as well of the time paſt as of the time to come.

Writ of Indemptitate Nominis, maintainable for Executors, &c.

VI. *And be it further enacted by the authority aforeſaid*, That a writ of *idemptitate nominis* ſhall and may be granted and made good and maintainable for the executors of every teſtator, and the adminiſtrators of every perſon dying inteſtate, to the ſame effect, as the ſame action of *idemptitate nominis* would have been maintainable for the teſtator, or inteſtate, if ſuch teſtator or inteſtate were in life, and were or might have been moleſted or grieved becauſe or by colour of any outlawry of any perſon having ſuch and the like names as the ſame teſtator or inteſtate had.

Preamble reſpecting fraudulent adminiſtration of the goods of Inteſtates.

*And for as much* as it is ſometimes practiſed to the defrauding of creditors, that ſuch perſons as are to have the adminiſtration of the goods of others dying inteſtate, committed unto them if they require it, will not accept the ſame, but ſuffer or procure the adminiſtration to be granted to ſome other of mean eſtate, from whom themſelves, or others by their means, do take deeds of gifts and authorities by letters of attorney, whereby they obtain the eſtate of the inteſtate into their hands, and yet ſtand not ſubject to pay any debts owing by the ſame inteſtate, and ſo the creditors for want of knowledge of the place of habitation of the adminiſtrator, cannot arreſt or ſue him or her, and if they happen to find him or her out, yet for want of ability in him or her, to ſatisfy of his or her own goods, the value of that he or ſhe hath conveyed away or waſted, of the inteſtate's goods, or releaſed of his or her debts, the craditors cannot have or recover their juſt debts.

Where perſons ſhall be conſidered as Executors of their own wrong.

*Therefore be it further enacted by the authority aforeſaid*, That every perſon and perſons who ſhall obtain, receive and have, any goods or debts of any perſon dying inteſtate, or a releaſe or other diſcharge of any debt or duty that belonged to the inteſtate, upon any fraud as is aforeſaid, or without ſuch valuable conſideration as ſhall amount to the value of the ſame goods or debts, or near thereabouts, (except it be in or towards ſatisfaction of ſome juſt and principal debt, of the value of the ſame goods or debts to him or her owing by the inteſtate at the time of his or her deceaſe) ſhall be charged and chargeable as executor of his or her own wrong, and ſo far only as all ſuch goods and debts coming to his or her hands, or whereof he or ſhe is releaſed or diſcharged by ſuch adminiſtrator will ſatisfy; deducting nevertheleſs, to and for himſelf, allowance of all juſt due and principal debts upon good conſideration, without fraud owing to him or her by the inteſtate, at the time of his or her deceaſe; and of all other payments made by him or her, which lawful executors or adminiſtrators, may and ought to have and pay by the laws of this State.

In what caſes a Scire Facias may be ſued out.

VIII. *And be it further enacted by the authority aforeſaid*, That where any judgment hath been, or ſhall be had by or in the name of any executor or adminiſtrator, in every ſuch caſe, and adminiſtrator *de bonis non*, may ſue forth a *ſcire facias*, and have and take execution upon ſuch judgment.

Executors, &c. chargeable for waſte of goods, &c.

IX. *And be it further enacted by the authority aforeſaid*, That all and every the executors and adminiſtrators of any perſon or perſons, who, as executor or executors, either of right, or in his, her, or their own wrong, or as adminiſtrator or adminiſtrators, hath or have waſted or converted, or hereafter ſhall waſte or convert any goods, chattels, eſtates, or aſſets of any perſon deceaſed, to his, her, or their own uſe, ſhall be liableand chargeable in the ſame manner as his, her, or their teſtator or inteſtate would have been if living.

Actions may be brought againſt Executors, &c.

X. *And be it further enacted by the authority aforeſaid*, That actions of account ſhall and may be brought and maintained againſt the exeeutors or adminiſtrators of every guardian, bailiff, and receiver.

XI. *And*

Inventories of the goods, &c. of Teſtatot and Inteſtates, by whom and how to be taken.

XI. *And be it further enacted by the authority aforeſaid*, That the executor and executors named by the teſtator, or perſon deceaſed, or ſuch other perſon or perſons to whom adminiſtration hath been or ſhall be committed, where any perſon hath died, or ſhall die inteſtate, or by way of inteſtate, calling or taking to him, her, or them, ſuch perſon or perſons, two at the leaſt, to whom the ſaid perſon ſo dying was indebted, or made any legacy, and upon their refuſal or abſence, two other honeſt perſons, being next of kin to the perſon ſo dying, and in their default or abſence, two other honeſt perſons, and in their preſence, and by their diſcretion, ſhall make, or cauſe to be made, a true and perfect inventory of all the goods, chattels, wares, and merchandize, as well moveable as not moveable, whatſoever, that were of the perſon ſo deceaſed, and the ſame ſhall cauſe to be indented, whereof the one part ſhall be, by the ſaid executor or executors, adminiſtrator or adminiſtrators, preſented and delivered to the Judge of the Court of Probates, or to the Surrogate in whoſe office the teſtament of ſuch perſon ſo dying was proved, or adminiſtration committed, upon the oath or oaths of ſuch executor or executors, adminiſtrator or adminiſtrators, to be taken before the ſaid Judge or Surrogate, that the ſame inventory is juſt and true; and the other part of the ſame inventory ſhall remain with the ſaid executor or executors, adminiſtrator or adminiſtrators.

Inventories how to be diſpoſed of.

## CHAP. XX.

AN ACT *for the better apprehending of Felons.* Paſſed the 14th of February, 1787.

Felonies how to be publiſhed, and Felons purſued.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame*, That when any murder, robbery, burglary, burning of houſes, theft, or other felony, ſhall be committed, cries thereof ſhall be ſolemnly made immediately in all the towns, markets and places of public reſort, near where the ſame felony ſhall be committed, ſo that no man by ignorance may excuſe himſelf; and that freſh purſuit after ſuch robbers and felons, ſhall be forthwith made from town to town, and from county to county, by horſemen and footmen, to apprehend and arreſt the ſame robbers and felons.

Sheriffs, &c. how to be aſſiſted.

*And further*, That all men generally be ready and armed and accoutred at the commandment and ſummons of Sheriffs, Coroners, Bailiffs, Conſtables, and Marſhals; and at the cry of the country, to purſue and arreſt felons, whenever there ſhall be occaſion, as well within franchiſe as without, and they who will not do ſo, and be thereof convicted, either in the Supreme Court, or before Juſtices authoriſed or aſſigned to hear and determine, or before the Juſtices of the Peace, at their General Seſſions, in and for the city or county where ſuch neglect ſhall happen, ſhall be puniſhed by fine, according to the diſcretion of the Juſtices of the ſame court. And if any Sheriff, Coroner, Bailiff, Conſtable, or Marſhal, within any franchiſe, or without, for reward, or for prayer, or for fear, or for any manner of affinity, or for any other cauſe, ſhall conceal, or conſent or procure to be concealed, any felony whatſoever, or will not attack or arreſt ſuch felons when he may, or otherwiſe will not do his office, for favor to ſuch miſdoers, or for any other cauſe, and be thereof convicted, in any ſuch court as aforeſaid, he and they, and every of them ſo offending, ſhall be puniſhed by fine and impriſonment according to the diſcretion of the Juſtices of the ſame court.

Penalty on delinquent Sheriffs, &c.

## CHAP. XXI.

AN ACT *for the puniſhment of the Vice of Buggery.* Paſſed the 14th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the deteſtable and abominable vice of buggery, committed with mankind or beaſt, ſhall be from henceforth adjudged felony, and ſuch order and form of proceſs therein ſhall be uſed againſt the offenders as in caſes of felony at the common law; and that every perſon being thereof convicted, by verdict, confeſſion, or outlawry, ſhall be hanged by the neck until he or ſhe ſhall be dead.

Buggery to be puniſhed with death

## CHAP. XXII.

AN ACT *concerning Murder.* Paſſed the 14th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly and it is hereby enacted by the authority of the ſame,* That all wilfull killing by poiſoning of any perſon or perſons, done, perpetrated or committed, or that at any time hereafter ſhall be done, perpetrated or committed, ſhall be adjudged, taken, and deemed wilful murder of malice prepenſe; and the offenders therein, their aiders, abettors, procurers and counſellors, ſhall ſuffer death, and forfeit in every behalf, as in other caſes of wilful murder of malice prepenſe.

Poiſoning, murder, &c. to be puniſhed with death.

II. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall ſtab or thruſt any perſon or perſons, that hath not then any weapon drawn, or that hath not then firſt ſtricken the party who ſhall ſo ſtab or thruſt, ſo as the perſon or perſons ſo ſtabbed or thruſt, ſhall thereof die within the ſpace of ſix months then next following, although it cannot be proved that the ſame was done of malice aforethought, every ſuch unlawful killing ſhall be adjudged, taken and deemed wilful murder. And the offenders therein, their aiders, abettors, procurers and counſellors, ſhall ſuffer death, and forfeit in every behalf, as in other caſes of wilful murder of malice prepenſe. But this ſhall not extend to any perſon or perſons who ſhall kill any perſon or perſons in his, her, or their own defence, or by miſfortune, or in any other manner than as aforeſaid; nor to any perſon or perſons who in keeping and preſerving the peace, ſhall chance to kill any perſon or perſons, ſo as ſuch killing be not done wittingly, willingly and of purpoſe, under pretext and colour of keeping the peace; nor to any perſon or perſons who in chaſtiſing or correcting, his, her, or their child, or ſervant, ſhall, contrary to his, her, or their intent and purpoſe, chance to kill ſuch child or ſervant.

Puniſhment for ſtabbing, &c.

III. *And be it further enacted by the authority aforeſaid,* That when a ſervant killeth his maſter, or a wife her huſband, of malice prepenſe, ſuch offences ſhall be deemed and adjudged to be and ſhall be puniſhed as murder.

Servants, &c. killing.

IV. *And be it further enacted by the authority aforeſaid,* That if any evil diſpoſed perſon or perſons ſhall attempt felonioufly to rob or murder any perſon or perſons, in or nigh any high way, or in his or their manſion houſe, or dwelling place, or ſhall felonioufly attempt to break any dwelling houſe in the night, and ſhall happen, in his or their being in ſuch their felonious attempt, to be ſlain by him, her, or them whom the ſaid evil doers ſhall ſo attempt to rob or murder, or by any perſon or perſons being in the dwelling houſe which the ſame evil doers ſhall attempt burglarioufly to break by night; then, and in every ſuch caſe, if the perſon or perſons ſo happening to kill any ſuch perſon or perſons, ſo attempting to commit any ſuch murder, robbery, or burglary, ſhall be indicted or appealed of or for the death of ſuch evil diſpoſedperſon or perſons, ſo attempting to commit murder, robbery, or burglary, as aforeſaid, if it be found by verdict, that the party ſo indicted or appealed, killed ſuch evil diſpoſed perſon or perſons in ſuch felonious attempt, the party ſo indicted or appealed ſhall not forfeit or loſe any thing for the death of ſuch evil diſpoſed perſon, in manner aforeſaid ſlain, but ſhall

Perſons killing others attempting murder, &c. to be acquitted.

be thereof and for the ſame fully acquitted and diſcharged, in like manner as the ſame perſon or perſons ſhould be, if he, ſhe, or they were lawfully acquitted of the death of the ſaid evil diſpoſed perſon or perſons.

Perſons killing in their own defence to be diſcharged.

V. *And be it further enacted by the authority aforeſaid*, That upon all indictments and appeals of or for the death of any perſon or perſons, if it be found by verdict, that the party indicted or appealed, killed the perſon or perſons for whoſe death he, ſhe, or they is, are, or ſhall be indicted or appealed, in his, her, or their own defence, or by misfortune, then, and in every ſuch caſe, the party ſo found by verdict to have killed the perſon or perſons for whoſe death he, ſhe, or they is, are, or ſhall be indicted or appealed, in his, her, or their own defence, or by misfortune as aforeſaid, ſhall not forfeit or loſe any thing for the death of the ſame perſon or perſons ſo killed, but ſhall be thereof and for the ſame fully acquitted and diſcharged.

Or in apprehending felons, &c.

VI. *And be it further enacted by the authority aforeſaid*, That upon all indictments and appeals, of or for the death of any perſon or perſons, if it be found by verdict, that the party indicted or appealed happened to kill the perſon or perſons for whoſe death he, ſhe, or they is, are, or ſhall be indicted or appealed, in attempting or endeavoring, by any lawful ways or means, to apprehend, take, or arreſt the ſame perſon or perſons, for any treaſon or felony done and committed, or hereafter to be done and committed, or in the lawful defence of his, her or their huſband, wife, parent, child, maſter, miſtreſs, or ſervant, or in ſuppreſſing any riot, or in keeping and preſerving the peace, or in lawfully chaſtiſing or correcting his, her or their child or ſervant, then, and in every ſuch caſe the party ſo found by verdict to have killed the perſon or perſons for whoſe death he, ſhe, or they is, are or ſhall be indicted or appealed, ſhall not forfeit or loſe any thing for the death of the ſame perſon or perſons ſo killed, but ſhall thereof, and for the ſame be fully acquitted and diſcharged.

## CHAP. XXIII.

AN ACT *for preventing and puniſhing Rapes, and the forcible taking of Women.*
Paſſed the 14th of February, 1787.

Perſons carnally abuſing female children, to ſuffer death.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That if any perſon ſhall unlawfully and carnally know and abuſe any woman child, under the age of ten years, every ſuch unlawful and carnal knowledge, ſhall be deemed and adjudged to be a rape, and felony; and every offender, being thereof duly convicted or attainted, ſhall ſuffer death for the ſame.

Raviſhment how puniſhed.

II. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall by force, raviſh a married woman, or maid, or any other woman, it ſhall be deemed and adjudged felony; and every offender, being thereof duly convicted or attainted, ſhall ſuffer death for the ſame. And in all caſes of rape, the offenders may be proſecuted and puniſhed at the ſuit of the People of this State, as well as by appeal at the ſuit of the party.

Preamble.

*And whereas* women, as well maidens, as widows and wives, having ſubſtance, ſome in goods moveable, and ſome in lands and tenements, and ſome being heirs apparent unto their anceſtors, for the lucre of ſuch ſubſtance, be ſometimes taken by miſdoers, contrary to their will, and afterwards married to ſuch miſdoers or to others, by their aſſent, or defiled.

For prevention whereof,

Forcible takers of women, &c. to ſuffer death.

II. *Be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall take any woman ſo againſt her will unlawfully, *that is to ſay*, maid, widow, or wife, ſuch taking, and the procuring and abetting to the ſame, ſhall be felony; and every offender, being thereof duly convicted or attainted, ſhall ſuffer death for the ſame. And that ſuch miſdoers, takers, procurators, and abettors to the ſame, in form aforeſaid, ſhall be reputed and judged as principal felons; but this clauſe of this act ſhall not extend to any perſon taking any woman, only claiming her as his ward, or bond-woman.

CHAP.

## CHAP. XXIV.

AN ACT *to prevent Encroachments of the Court of Admiralty.*
Paſſed the 14th of February, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Court of Admiralty of this State, ſhall not meddle or hold plea of any thing done within this State, but only of things done upon the ſea, as it hath been formerly uſed: *And further,* That of all manner of contracts, pleas and quarrels, and of all other things done, ariſing within the body of any county of this State, as well by land as by water, and alſo of wreck of the ſea, the Court of Admiralty ſhall have no manner of cognizance, power, nor juriſdiction; but all ſuch manner of contracts, pleas and quarrels, and all other things ariſing within the body of any county of this State, as well by land as by water as aforeſaid, and alſo wreek of the ſea, ſhall be tried, determined, diſcuſſed, and remedied by the laws of the land, and not before, nor in or by the Court of Admiralty. Limiting the cognizance of Courts of Admiralty.

*Neverthleſs,* of the death of any perſon, and of *maihem* done in ſhips or veſſels being and hovering in the main ſtream of great rivers out of the body of any county, or nigh to the ſea, and in none other places of the ſame rivers, the Court of Admiralty ſhall have cognizance. To death, &c.

*And moreover,* That as touching a pain to be ſet on the Judge of the Court of Admiralty, this ſtatute and the common-law ſhall be holden againſt him; and that any perſon who ſhall be aggrieved, againſt the form of this ſtatute, ſhall have his action by writ grounded upon the caſe, againſt him that doth ſo purſue in the Court of Admiralty, and recover his double damages againſt the purſuant, and the ſame purſuant ſhall incur the pain of ten pounds to the people of this State for the purſuit ſo made, if he be convicted. Reſpecting a pain to be ſet on the Judge of Admiralty.

*Provided always,* That nothing in this act ſhall extend to any libel, information or ſuit in the Court of Admiralty, for or concerning the forfeiture of any goods, wares or merchandize ſeized or to be ſeized, by virtue of an act intitled an act impoſing duties on certain goods, wares and merchandize imported into this State. Proviſo.

## CHAP. XXV.

AN ACT *for the Relief of Arthur Noble and others.*
Paſſed the 15th of February, 1787.

WHEREAS it is repreſented to the Legiſlature, that Arthur Noble hath been at great expence in order to obtain lands in this ſtate for the ſettlement of one hundred families; but by unavoidable accident hath been hitherto fruſtrated in his intentions. *And whereas,* the introduction and actual ſettlement of a number of induſtrious families on the frontiers of this State will be for the general advantage thereof. Preamble.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame:* That it ſhall and may be lawful for the Commiſſioners of the land-office to grant to the ſaid Arthur Noble, a quantity of land equal to one townſhip of ten miles, or two townſhips of eight miles ſquare, of the waſte and unappropriated lands in any part of this State, on ſuch terms and conditions, as to them ſhall appear moſt conducive to the intereſt thereof, on his, the ſaid Arthur Noble's paying into the Treaſury of this State, at and after the rate of one ſhilling per acre, in certificates made receivable by law in the treaſury, on the ſale of unappropriated land. Commiſſioners of the Land office to grant relief to Arthur Noble.

*And whereas* Joſhua Mercereau, by his petition hath repreſented, that he lately purchaſed at public vendue ſeveral parcels of waſte and unappropriated lands, and that by unavoidable accidents he was prevented from making payment for the ſame, within the time limited by law. Therefore, Further preamble.

II. *Be*

Joſhua Mercereau relieved.

II. *Be it further enacted by the authority aforeſaid*, That it ſhall be lawful for the Commiſſioners of the land-office, to grant letters patent to the ſaid Joſhua Mercereau, for the lands ſo by him purchaſed, upon his paying for the ſame in ſuch manner and within ſuch time as the ſaid Commiſſioners ſhall direct.

Preamble.

*And whereas*, Sluman Wattles has by his petition to the Legiſlature ſet forth, that he was entitled to lands upon an equitable claim, and through ignorance of the act entitled "an act for the ſpeedy ſale of the unappropriated lands within this State, and for other purpoſes therein mentioned;" paſſed the fifth day of May, one thouſand, ſeven hundred and eighty-ſix, he neglected to pay for the ſaid lands within the time limited by the ſaid act. Therefore,

Sluman Wattles relieved.

III. *Be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Commiſſioners of the land-office, to grant letters patent to the ſaid Sluman Wattles, for ſo much land as it ſhall appear to the ſaid Commiſſioners he has a juſt and equitable claim to, on his paying into the Treaſury one ſhilling per acre, for the ſaid lands, in ſuch certificates as are made receivable, by the ſaid act, and within ſuch time as the ſaid Commiſſioners ſhall direct.

## CHAP. XXVI.

### AN ACT *for preventing of Vexations and Oppreſſions by Arreſts.*

Paſſed the 16th of February, 1787.

Certain perſons in cuſtody admiſſible to bail.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That all and every Sheriff, Under Sheriff, Coroner, Gaoler and other Officer, ſhall let out of priſon all manner of perſons by them, or any of them arreſted, or to be arreſted, or being in their cuſtody, by force of any writ, bill, or warrant; in any perſonal action, or by reaſon or any indictment for treſpaſs, upon reaſonable ſureties, of ſufficient perſons having ſufficient within the counties where ſuch perſons be ſo let to bail or mainprize, to keep their days in ſuch place as the ſaid writs, bills, or warrants ſhall require, (except ſuch perſon or perſons as be or ſhall be in their ward, by condemnation, execution, *capias utlagatum*, ſurety of the peace, and all ſuch perſons as be, or ſhall be committed to ward by ſpecial commandment of any Court or Juſtices,) and that no Sheriff, or any of the officers or Miniſters aforeſaid, ſhall take, or cauſe to be taken, or make any obligation for any cauſe aforeſaid, or by colour of their office, of any perſon, or by any perſon who ſhall be in their ward, by courſe of law, but only to themſelves and by the name of their office, and upon condition written, that the ſaid priſoners ſhall appear at the day contained in the ſaid writ, bill, or warrant, and in ſuch places as the ſaid writs, bills, or warrants ſhall require; and if any of the ſaid Sheriffs, Officers, or Miniſters aforeſaid, take any obligation in other form by colour of their offices, it ſhall be void.

Sheriff directed in taking obligations.

Sheriff anſwerable for the appearance of his priſoner.

*And further*, That if any Sheriff, or other Officer, or Miniſter aforeſaid, return upon any perſon, that he hath taken the body, or that ſuch perſon hath ſurrendered himſelf, ſuch Sheriff or other Officer, or Miniſter aforeſaid, ſhall be chargeable to have the body of ſuch perſon at the days of the returns of the ſaid writs, bills, or warrants in ſuch form as they were before the making of this act.

Regulating ſecurities for appearance.

II. *And be it further enacted by the authority aforeſaid*, That no perſon or perſons who ſhall happen to be arreſted by any Sheriff, Under Sheriff, Coroner, Miniſter, or other ofcer or any other perſon or perſons whomſoever, having or pretending to have authority or warrant in that behalf, by force or colour of any writ bill, or proceſs, iſſued or to be iſſued out of the Supreme Court, (except writs of *capias utlagatum*, attachments upon reſcous, Attachments, upon contempt, and attachments of privilege, at the ſuit of any privileged perſon) in which ſaid writ, bill, or proceſs, the certainty and true cauſe of action is not expreſſed particularly, and for which the defendant or defendants in ſuch writ, bill, or proceſs named, is and are or ſhall be bailable by ſuch Sheriff, Under-Sheriff, Coroner, Miniſter and other officer as aforeſaid, ſhall be forced or compelled to give ſecurity, or to enter into bond with ſureties, for the appearance of ſuch perſon or perſons ſo arreſted, at the day and place in the ſaid writ, bill, or proceſs ſpecified or contained, in any penalty or ſum exceeding the ſum of forty pounds lawful money of this

this State, to be conditioned for ſuch appearance. And that all Sheriffs and other officers and Miniſters aforeſaid, ſhall let to bail, and deliver out of priſon, and from their and every of their cuſtodies reſpectively, all and every perſon and perſons whomſoever, by them or any of them arreſted, upon any ſuch writ, bill, or proceſs, wherein the certainty and true cauſe of action is not particularly expreſſed (except as before excepted) upon ſecurity, in the ſum of forty pounds, and no more given for the appearance of ſuch perſon or perſons ſo arreſted, unto the ſaid Sheriff or other Officer aforeſaid, in manner and form aforeſaid, or upon ſuch perſon or perſons ſo arreſted indorſing his or their appearance upon ſuch writ, bill or proceſs.

Sheriffs may bail perſons on ſecurity.

*And further*, That where ſuch appearance ſhall be indorſed upon any ſuch writ, bill, or proceſs, the Clerk of the ſaid Supreme Court ſhall, at the return of the ſame writ, bill, or proceſs, enter the appearance of ſuch perſon or perſons ſo indorſed; and where ſuch perſon or perſons ſo arreſted ſhall give bond in the ſum of forty pounds, for his, her, or their appearance as aforeſaid, and ſhall, either in perſon, or by any Attorney of the ſame Court, cauſe his, her, or their appearance unto the ſame writ, bill, or proceſs, to be entered with the Clerk of the ſame Court, in the term wherein the ſame writ, bill, or proceſs ſhall be returable, ſuch bond or bonds, ſo given for appearance, ſhall be, and hereby are declared to be thereby ſatisfied and diſcharged; and after ſuch appearance ſo entered, no amerciaments ſhall be ſet or eſtreated upon or againſt any Sheriff or other Officer aforeſaid, or any other perſon or perſons, concerning the want of ſuch appearance.

Procedure in caſe of appearance.

*And moreover*, Unleſs the plaintiff or plaintiffs in any ſuch writ, bill, or proceſs, named, ſhall put into the ſame court, his, her, or their bill or declaration, againſt the perſon or perſons, ſo arreſted, in ſome perſonal action or ejectment of lands or tenements, before the end of the term next following after appearance, that then a non-ſuit, for want of a declaration may be entered againſt the ſaid plaintiff or plaintiffs; and that every defendant in every ſuch writ, bill, or proceſs, named, ſhall or may have judgment to recover coſts againſt ſuch plaintiff or plaintiffs, to be aſſeſſed, taxed, and levied in like manner as coſts awarded to defendants in caſes of verdicts or judgments for them are to be aſſeſſed, taxed and levied.

On failure of the plaintiff, the defendant to recover coſts

III. *And be it further enacted by the authority aforeſaid*, That whereon any proceſs iſſued, or to be iſſued out of any Mayor's Court, or Court of Common Pleas, within this State, ſpecial bail is not required, and the defendant or defendants ſhall indorſe his, her, or their appearance upon the ſame proceſs, the Clerk of the ſame court ſhall, at the return of the ſame proceſs, enter the appearance of ſuch defendant or defendants ſo indorſed, which ſhall be a ſufficient appearance of ſuch defendant or defendants, to enable the plaintiff or plaintiffs to proceed to judgment and execution, in his, her, or their ſuit or action.

Manner of proceeding where ſpecial bail is not required.

IV. *And be it further enacted by the authority aforeſaid*, That if any Sheriff, Under-Sheriff, Coroner, or other officer or miniſter whatſoever, ſhall at any time or times hereafter, have in his or their cuſtody, any perſon or perſons, by virtue of, or colour of any writ, proceſs, or other warrant whatſoever, it ſhall not be lawful for ſuch officer or officers to convey or carry, or cauſe to be conveyed or carried, the ſaid perſon or perſons, to any tavern, ale-houſe, or other public victualling or drinking houſe, without the free and voluntary conſent of the ſaid perſon or perſons, ſo as to charge ſuch priſoner with any ſum of money, for any wine, beer, ale, cider, punch, victuals, tobacco, or any other thing whatſoever, but what the ſaid perſon or perſons ſhall call for, of his, her, or their own accord; and ſuch officer or officers ſhall not demand, take, or receive, or cauſe to be demanded, taken, or received, directly or indirectly, any other or greater ſum or ſums than what by law ought to be taken or demanded for ſuch arreſt, taking, or waiting until ſuch perſon or perſons ſhall have procured an appearance, found bail, agreed with his, her, or their adverſaries, or be ſent to the proper gaol belonging to the county, city, town, or place where ſuch arreſt or taking ſhall be, nor take or exact any other reward or gratuity for ſo keeping the ſaid perſon or perſons out of the gaol or priſon, than what he, ſhe, or they ſhall or will, of his, her, or their own accord, voluntarily and freely give, nor take, nor receive any other or greater ſum or ſums for each night's lodging, or other expences, than what is reaſonable and fitting in ſuch caſes, or ſhall

Sheriffs directed in treatment of their priſoners.

be ſo adjudged by the next Juſtice of the Peace, or at the General Seſſions; and ſhall not cauſe or procure the ſaid perſon or perſons to pay for any other wine, beer, ale, cider, punch, victuals, tobacco, or other things, than what the ſaid perſon or perſons ſhall voluntarily, particularly, and freely call for. *And further*, That every Sheriff, Under-Sheriff, Gaoler, Keeper of Priſon or Gaol, and every perſon and perſons whomſoever, to whoſe cuſtody any perſon or perſons ſhall be delivered or committed, by virtue of any writ or proceſs, or on any pretence whatſoever, ſhall permit and ſuffer the ſaid perſon or perſons, at his, her, and their will and pleaſure, to ſend for and have any beer, ale, victuals, and other neceſſary food, where and from whom they pleaſe; and alſo, to have and uſe ſuch bedding, linen, and other things, as the ſaid perſon or perſons ſhall think fit, without any purloining, detaining, or paying for the ſame, or any part thereof, and ſhall not demand, take, or receive of the ſaid perſon or perſons, any other or greater fee or fees whatſoever, for his, her, or their commitment, releaſe, or diſcharge, than what is or ſhall be allowable by law, nor any thing whatſoever for his, her, or their chamber rent. *And moreover*, That it ſhall not be lawful for any Sheriff, Gaoler, or Keeper of any Gaol or Priſon, to put, keep, or lodge priſoners for debt, and felons together in one room or chamber, but that they ſhall be put, kept, and lodged ſeparate and apart one from another, in diſtinct rooms.

No Sheriff or Gaoler to prevent priſoners receiving neceſſaries.

Debtors and felons to be kept ſeparate.

V. *And be it further enacted by the authority aforeſaid*, That all and every Sheriff, Under-Sheriff, Coroner, Gaoler, and other officer or miniſter aforeſaid, who ſhall offend againſt any thing in this act herein before contained, or the true intent and meaning thereof, or any part thereof, ſhall forfeit and loſe his office, place, or employment, and ſhall forfeit treble damages to the party aggrieved, to be recovered by action of debt, bill, plaint, or information, in any court of record, with coſts of ſuit.

Penalty for offending againſt this act.

VI. *And be it further enacted by the authority aforeſaid*, That if any Sheriff, Under-Sheriff, Coroner, or other perſon, having authority, or taking upon him to open writs, ſhall make any warrant for the ſummons of any perſon, as upon any writ, proceſs, or ſuit, or for the arreſt or attaching of any perſon or perſons, by his, her, or their body or goods, to appear in any court of record, (not having before that time the original writ or proceſs warranting the ſame) that then, upon complaint thereof made to the Juſtice or Juſtices who ſhall hold the Circuit Court in the county where the offence ſhall be committed, or to the Judges or Juſtices of the court out of which the proceſs iſſued, not only the party who made ſuch warrant, but all thoſe who were the procurers thereof, ſhall be ſent for before the ſame Judges or Juſtices, by attachment or otherwiſe, as the ſame Judges or Juſtices ſhall think fit, and be examined thereof upon oath; and if the ſame offence be confeſſed by the ſame offenders, or proved by ſufficient witneſſes, to the ſatisfaction of the ſame Judges or Juſtices, that then the ſame Judges or Juſtices who ſhall ſo examine the ſame, ſhall forthwith, by force of this act, commit every of the ſame offenders to the gaol of the county or court where the ſame ſhall be examined, there to remain without bail or mainpriſe, until ſuch time as they, amongſt them, have fully ſatisfied and paid unto the party grieved by ſuch warrant, not only the ſum of ten pounds lawful money of this State, but alſo all ſuch coſts and damages as the ſame Judges or Juſtices ſhall ſet down that the ſame party hath ſuſtained thereby, and likewiſe twenty pounds each, for their offence againſt the People of this State.

Penalty on perſons opening writs or making warrants illegally.

VII. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall, by any ways or means, maliciouſly, or for vexation and trouble, cauſe or procure any other perſon or perſons to be arreſted, or attached to anſwer in any court of record, or in any other court or place, at the ſuit, or in the name of any perſon or perſons, where indeed there is no ſuch perſon or perſons known, or without the aſſent, conſent, or agreement of ſuch perſon or perſons at whoſe ſuit or in whoſe name ſuch arreſt or attachment is or ſhall be ſo had and procured; that then, and in ſuch caſe, every ſuch perſon and perſons who ſhall ſo cauſe or procure any ſuch arreſt or attachment of any other perſon or perſons, to be had or made, for vexation or trouble as aforeſaid, ſhall, for every ſuch offence, forfeit and pay to the party or parties ſo arreſted or attached by his, her, or their means or procurement, treble the coſts, charges, damages and expences that he, ſhe, or they ſo arreſted or attached, ſhall be put unto, by reaſon or occaſion of ſuch arreſt or attachment ſo had, to be recovered by action of debt, bill, plaint,

Vexatious proſecutors how to be puniſhed.

plaint, or information, in any court of record, with coſts of ſuit; and ſhall alſo forfeit and pay unto ſuch perſon or perſons in whoſe name, and at whoſe ſuit ſuch arreſt or attachment ſhall be had or made, if then there ſhall be any ſuch perſon known, the ſum of twenty pounds for every ſuch offence; to be recovered as aforeſaid; and ſhall alſo, upon conviction thereof, have and ſuffer impriſonment by the ſpace of ſix calendar months, without bail or mainpriſe.

## CHAP. XXVII.

### AN ACT *for the more eaſy pleading in certain Suits.*
Paſſed the 16th of February, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That if any action, bill, plaint, or ſuit upon the caſe, treſpaſs, battery, or falſe impriſonment is brought, or hereafter ſhall be brought, againſt any Sheriff, Coroner, Juſtice of the Peace, Mayor, Recorder, or Aldermen, Bailiff, Conſtable, Marſhal, Collector, or Overſeer of the Poor, and their Deputies, or any of them, or any other perſon who in their aid or aſſiſtance, or by commandment, have done, or ſhall do any thing touching or concerning his, her, or their office or offices, for or concerning any matter, cauſe, or thing, by them, or any of them done, by virtue or reaſon of their or any of their office or offices, that the ſaid action, bill, plaint, or ſuit, ſhall be laid within the county where the treſpaſs or fact hath been or ſhall be done and committed, and not elſewhere; and that it ſhall be lawful to and for all and every perſon and perſons aforeſaid, to plead thereunto the general iſſue, that he or they are not guilty, and to give ſuch ſpecial matter in evidence to the Jury which ſhall try the ſame, which ſpecial matter being pleaded, had been a good and ſufficient matter in law, to have diſcharged the ſaid defendant or defendants of the treſpaſs, or other matter laid to his or their charge; and that if upon the trial of any ſuch action, bill, plaint, or ſuit, the plaintiff or plaintiffs therein, ſhall not prove to the Jury which ſhall try the ſame, that the treſpaſs, battery, impriſonment, or other fact or cauſe of his, her, or their ſuch action, bill, plaint, or ſuit, was or were had, made, committed, or done within the county wherein ſuch action, bill, plaint, or ſuit, is or ſhall be laid, that then, and in every ſuch caſe, the Jury which ſhall try the ſame, ſhall find the defendant and defendants in every ſuch action, bill, plaint, or ſuit, not guilty, without having any regard or reſpect to any evidence given by the plaintiff or plaintiffs therein, touching the treſpaſs, battery, impriſonment, or other cauſe for which the ſame action, bill, plaint, or ſuit is or ſhall be brought: And if the verdict ſhall paſs with the defendant or defendants in any ſuch action, bill, plaint, or ſuit, or the plaintiff or plaintiffs therein become non-ſuit, or ſuffer any diſcontinuance thereof, that in every ſuch caſe the Juſtices or Juſtice, or other Judges or Judge, before whom the ſaid matter ſhall be tried, ſhall, by force and virtue of this act, allow unto the defendant or defendants, his or their double coſts which he or they ſhall have ſuſtained by reaſon of his or their wrongful vexation, in defence of the ſaid action, bill, plaint, or ſuit, for which the ſaid defendant or defendants ſhall have like remedy as in other caſes where coſts by the laws of this State are given to defendants.

Manner of proceeding in actions brought againſt Sheriffs, &c. concerning their offices.

II. *And be it further enacted by the authority aforeſaid,* That if any action of treſpaſs, or other action or ſuit ſhall be brought againſt any perſon or perſons, for taking of any diſtreſs, making any ſale, or any thing done by authority of any ſtatute of this State, made, or hereafter to be made, the defendant or defendants, in any ſuch action or ſuit, ſhall and may either plead not guilty, or otherwiſe make avowry, cognizance, or juſtification, for the taking of the ſaid diſtreſs or diſtreſſes, making of ſale, or other thing done, or to be done by virtue of ſuch ſtatute, alledging in ſuch avowry, cognizance, or juſtification, that the ſaid diſtreſs, ſale, treſpaſs, or other thing, whereof the plaintiff or plaintiffs complain, was done by authority of ſuch ſtatute, and according to the tenure, purport, and effect thereof, without any expreſſing or rehearſal of any other matter

Regulating actions brought againſt perſons for diſtreſs, &c.

matter or circumſtance contained in ſuch ſtatute; to which avowry, cognizance or juſtification, the plaintiff or plaintiffs ſhall be admitted to reply, that the defendant or defendants did take the ſaid diſtreſs, make the ſaid ſale, or did any other act or treſpaſs, ſuppoſed in his or their declaration, of his or their own wrong, without any ſuch cauſe alledged by the ſaid defendant, whereupon the iſſue in every ſuch action ſhall be joined to be tried by a Jury, and not otherwiſe, as is accuſtomed in other perſonal actions; and upon the trial of that iſſue the whole matter ſhall or may be given in evidence by both parties, according to the very truth of the ſame, and after ſuch iſſue tried for the defendant or defendants, or non-ſuit of the plaintiff or plaintiffs after appearance, the ſame defendant or defendants ſhall recover treble damages, by reaſon of his or their wrongful vexation in that behalf with his or their coſts alſo in that behalf ſuſtained, which damages ſhall be aſſeſſed by the ſame Jury which ſhall try the iſſue, or upon a writ to inquire of the damages, as the caſe may require.

Actions in favor of the State, how to be proſecuted.

III. *And be it further enacted by the authority aforeſaid*, That in all actions and ſuits, to be taken or purſued in any court in this State, for the recovery of any debt or debts, which now be, or that hereafter ſhall happen, to appertain, accrue, remain, or be, to the People of the State of New-York, by reaſon of any attainder, outlawry, forfeiture, gift of the party, or by any other collateral way or means, it ſhall and may be ſufficient in the law to ſhew and alledge, in the ſaid ſuit, generally, that the party to whom the ſaid debt or debts, was or were owing, or did belong, ſuch a day and year, did give the ſame debt or debts to the People of the State of New-York, or was attainted, outlawed, or did commit or do ſome offence, forfeiture, deed, act, or thing, by reaſon whereof the ſaid debt or debts, did accrue and ought to remain, come and be to the People of the State of New-York, and that the ſame matter, ſo to be ſhewed, alledged or declared, generally, without ſhewing or declaring the circumſtances thereof, ſhall be of as good force and effect in the law, to all intents, conſtructions, and purpoſes, as if the whole matter thereof had been or were alledged and declared at large, in every point, according to the due order of the common law.

## CHAP. XXVIII.

AN ACT *concerning Wrecks of the Sea, and giving remedy to Merchants and others who be robbed, or whoſe Goods ſhall be loſt on the Sea.* Paſſed the 16th of February, 1787.

Veſſels, &c. caſt on ſhore, how adjudged and diſpoſed of.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That if a ſhip, veſſel, or boat, or any kind of goods, wares, or merchandize, ſhall be caſt by the ſea on the land, neither ſuch ſhip, veſſel, or boat, nor any thing in them, nor ſuch goods, wares, or merchandize, ſhall be adjudged wreck; but the ſhip, veſſel, or boat, and every thing therein contained, and ſuch goods, wares, and merchandize, ſhall be ſaved and kept by the view of the Sheriff or Coroner, or other perſon appointed for that purpoſe, who ſhall cauſe the ſame to be appraiſed, and ſafely keep them, ſo that if any perſon, within a year and a day, ſue for thoſe goods, and prove that they were his, or loſt in his keeping, they ſhall be reſtored to him, without delay, upon his paying the charges and expences of ſaving and keeping the ſaid goods; but if not, they ſhall remain to the People of this State, and ſhall, after the expiration of the ſaid year and day be ſold at public vendue, by the Sheriff, Coroner, or other perſon, appointed for that purpoſe, who ſhall have found or ſeized the ſame, who ſhall account for the ſame at the Exchequer, deducting the charges and expences of ſaving and keeping the ſame, and of ſuch ſale: And he that doeth otherwiſe, and is thereof convicted, ſhall yield damages to the party grieved, and ſhall be puniſhed by fine or impriſonment, or both, at the diſcretion of the Court or Juſtices, before whom he ſhall be convicted.

II. *And*

*And further*, That if any merchant, citizen, or ſtranger, or any other, be robbed of his goods upon the ſea, and the goods come into any part of this State, and he will ſue to recover the ſaid goods, he ſhall be received to prove the ſaid goods to be his own, by his marks or by his cocket, or by good and lawful merchants, citizens, or ſtrangers, or others; and upon ſuch proof, the ſame goods ſhall be delivered to him without delay.

Goods ſtolen at ſea, &c. to be reſtored to the owner.

III. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the perſon adminiſtering the government of this State for the time being, by and with the advice and conſent of the Council of Appointment, from time to time, by commiſſion under the great ſeal of this State, to appoint ſuch and ſo many proper perſons in each of the counties of this State bordering on the ſea, as they may think neceſſary, to aid and aſſiſt all ſuch ſhips and veſſels as may happen to be ſtranded on the coaſts in the ſame counties; and ſuch perſons ſo appointed ſhall be, and hereby are reſpectively authoriſed and required to give all poſſible aid and aſſiſtance to all ſuch ſhips and veſſels, and to the people on board of the ſame, and to uſe their utmoſt endeavours to ſave the ſame, and to ſave, preſerve, and ſecure, for the purpoſes aforeſaid, the cargoes of all ſuch ſhips and veſſels, and all goods and chattels whatſoever, which may at any time be caſt by the ſea upon the land; and to employ ſuch and ſo many men for the purpoſe, as they may reſpectively think proper. And the Sheriff, Coroner, or other perſon ſo appointed as aforeſaid, and all perſons by them employed, ſhall have a reaſonable allowance out of the ſame goods ſo ſaved and preſerved, for ſaving, preſerving and keeping the ſame. And ſuch Sheriff, Coroner, or other perſon ſo appointed, as aforeſaid, ſhall and may detain the ſame goods until payment thereof; and in caſe any diſpute ſhall ariſe concerning ſuch allowance, the ſame ſhall be ſettled and adjuſted by any two or more Juſtices of the Peace, dwelling in or near the town or place where the ſaid goods ſhall be found or ſaved. And if any perſon ſhall take away any goods whatſoever out of any ſhip or veſſel ſtranded as aforeſaid, or any goods caſt by the ſea upon the land, or found in any bay or creek, and not deliver the ſame goods to the Sheriff or Coroner of the county where the ſame ſhall be found, or to one of the perſons appointed as aforeſaid, within forty-eight hours after taking the ſame, or ſhall ſecret any ſuch goods, or ſhall convert them to his own uſe, every perſon ſo offending ſhall yield double damages to the owner of ſuch goods, to be recovered with coſts of ſuit, in any court having cognizance thereof, and be further puniſhed by fine or impriſonment, or other corporal puniſhment, at the diſcretion of the court, not extending to life or limb. And it is hereby made the duty of every Sheriff, Coroner, Juſtice of the Peace and Conſtable, and the perſons ſo appointed as aforeſaid, to preſent all offences and offenders, againſt this act, at the Seſſions of the Peace in their reſpective counties; and the Juſtices of the Peace in their Seſſions, are hereby authoriſed and required, to hear and determine the ſame.

Perſons to be appointed to aid veſſels in diſtreſs.

And to have reaſonable allowance.

Penalty for ſecreting goods ſtranded, &c.

## CHAP. XXIX.

AN ACT *declaring what Offences ſhall be adjudged Treaſon, and regulating Trials in caſes of Treaſon and miſpriſion of Treaſon.* Paſſed the 16th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That if any perſon do levy war againſt the people of this State, within this State, or be adherent to the enemies of the People of this State or of the United-States of America, within this State, giving to them aid and comfort in this State, or elſewhere, and be thereof by good proof attainted of open deed, ſuch offences and none other, ſhall be adjudged treaſon againſt the People of the State of New-York.

Levying war againſt this State, &c. declared treaſon.

Miſpriſion of treaſon.

II. *And be it further enacted by the authority aforeſaid,* That concealment or keeping ſecret any treaſon, ſhall be from henceforth adjudged, deemed, and taken to be miſpriſion of treaſon, and the offender therein ſhall forfeit and ſuffer as in caſes of miſpriſion of treaſon.

Trials for treaſon, &c. how made.

III. *And be it further enacted by the authority aforeſaid,* That all trials, to be had, awarded or made, for any treaſon, or miſpriſion of treaſon, ſhall be had and uſed only according to the due order and courſe of the common law and this act, and not otherwiſe.

Mode of proceeding in caſes of indictment.

IV. *And be it further enacted by the authority aforeſaid,* That all and every perſon and perſons whomſoever, that ſhall be accuſed and indicted for treaſon, or miſpriſion of treaſon, ſhall have a true copy of the whole indictment, with a liſt of the witneſſes to be produced on the trial for proving the ſaid indictment, mentioning their names, profeſſion, and place of abode, delivered unto him or them ſo indicted, five days at the leaſt before he, ſhe, or they ſhall be tried for the ſame, whereby to enable him, her, or them, to adviſe with Counſel thereupon, to plead and make their defence (his, her, or their attorney or attornies, or agent or agents, requiring the ſame) and that every perſon accuſed and indicted, arraigned, or tried for any treaſon, or miſpriſon of treaſon, ſhall be received and admitted to make his, her, or their full defence by Counſel, and to make any proof that he, ſhe, or they can produce by lawful witneſs or witneſſes, who ſhall then be upon oath, for his, her, and their juſt defence in that behalf. And in caſe any perſon or perſons ſo accuſed or indicted, ſhall deſire Counſel, the court before whom ſuch perſon or perſons ſhall be tried, or ſome Judge of that court, ſhall and is hereby authoriſed and required, immediately upon his, her, or their requeſt, to aſſign to ſuch perſon or perſons, ſuch and ſo many Counſel, not exceeding two, as the ſame perſon or perſons ſhall deſire, to whom ſuch Counſel ſhall have free acceſs at all reaſonable hours: And that all and every perſon and perſons who ſhall be accuſed, indicted and tried for any treaſon, or miſpriſion of treaſon, ſhall have copies of the panel, containing the names, places of abode, and additions of the Jurors who are to try him, her, or them, duly returned by the Sheriff, and delivered unto him, her, or them, and every of them ſo accuſed and indicted reſpectively, four days at leaſt before he, ſhe, or they ſhall be tried for the ſame. And that all perſons ſo accuſed and indicted for any treaſon, or miſpriſion of treaſon, ſhall have the like proceſs of the court where they ſhall be tried, to compel their witneſſes to appear for them at ſuch trial or trials as is uſually granted to compel witneſſes to appear againſt them.

Two witneſſes neceſſary to indict any perſon for treaſon, &c.

V. *And be it further enacted by the authority aforeſaid,* That no perſon or perſon whomſoever, ſhall be indicted, tried, or attainted of treaſon, or of miſpriſion of ſuch treaſon, but by and upon the oath and teſtimony of two lawful witneſſes, either both of them to the ſame overt act, or one of them to one, and the other of them to another overt act of the ſame treaſon; unleſs the party indicted and arraigned or tried, ſhall willingly, without violence, in open court, confeſs the ſame, or in caſe of treaſon ſhall peremptorily challenge above the number of thirty-five of the Jury. And if two or more diſtinct treaſons of divers heads or kinds, ſhall be alledged in one bill of indictment, one witneſs produced to prove one of the ſaid treaſons, and another witneſs to prove another of the ſaid treaſons, ſhall not be deemed or taken to be two witneſſes to the ſame treaſon, within the meaning of this act.

Admiſſion of evidence.

*And further,* That no evidence ſhall be admitted or given of any overt act, that is not expreſly laid in the indictment, againſt any perſon or perſons whomſoever.

Treaſon to be tried by the Supreme Court.

VI. *And be it further enacted by the authority aforeſaid,* That all offences by this act declared to be treaſon, which ſhall be committed, perpetrated, or done upon the land, out of this State, or upon the ſea, ſhall and may be inquired of, heard and determined in the Supreme Court of this State, by good and lawful men of the ſame county where the ſaid court ſhall ſit, in like manner and form, to all intents and purpoſes, as if the ſaid treaſons had been committed, perpetrated, and done within the ſame county.

Outlawries effectual againſt perſons out of the State.

VII. *And be it further enacted by the authority aforeſaid,* That any perſon or perſons being indicted for any treaſon, or miſpriſion of treaſon, may be outlawed, and thereby attainted of or for any of the ſaid offences: And that all proceſs of outlawry to be had and made within this State, againſt any ſuch offenders being reſident, or inhabiting out

of

of the limits of this State, or in parts beyond ſea, at the time of the outlawry pronounced againſt them, ſhall be as good and effectual in the law, to all intents and purpoſes, as if ſuch offenders had been reſident and dwelling within this State, at the time of ſuch proceſs awarded, and outlawry pronounced: But if the party ſo outlawed, being out of this State as aforeſaid, ſhall, within one year next after the ſaid outlawry pronounced, or judgment given upon the ſaid outlawry, yield or ſurrender himſelf to either of the Juſtices of the ſaid Supreme Court for the time being, and offer to traverſe the indictment, whereupon the ſaid outlawry ſhall be pronounced as aforeſaid, that then he ſhall be received to the ſaid traverſe; and if he ſhall be thereupon found not guilty by a verdict of the Jury, he ſhall clearly be acquitted and diſcharged of the ſaid outlawry, and of the penalties and forfeitures by reaſon of the ſame; and upon the trial of ſuch traverſe, the defendant ſhall, in all reſpects, have the benefit of this act.

Term of proſecution for treaſon.

VIII. *And be it further enacted by the authority aforeſaid,* That no perſon or perſons whomſoever, ſhall be indicted, tried, or proſecuted, for any treaſon, or miſpriſion of treaſon, that hath been, or ſhall be committed or done, unleſs the ſame indictment be found by a Grand Jury within three years next after the treaſon or offence done or committed.

In what caſes indictments may be quaſhed.

IX. *And be it further enacted by the authority aforeſaid,* That no indictment for any of the offences aforeſaid, nor any proceſs or return thereupon, ſhall be quaſhed on the motion of the priſoner, or his or her Counſel, for miſwriting or miſſpelling, unleſs exception concerning the ſame be taken and made in the court where ſuch trial ſhall be, by the priſoner, or his or her Counſel, before any evidence given in open court upon ſuch indictment; nor ſhall any ſuch miſwriting or miſſpelling, after conviction on ſuch indictment, be any cauſe to ſtay or arreſt judgment thereupon; but nevertheleſs, any judgment given upon ſuch indictment, ſhall and may be liable to be reverſed upon a writ of error, in the ſame manner, and in no other, than as if this act had not been made.

Penalty on perſons convicted of treaſon.

X. *And be it further enacted by the authority aforeſaid,* That every offender or offenders, being hereafter lawfully convicted of any manner of treaſon, by preſentment, confeſſion, verdict, or proceſs of outlawry, according to the due courſe and cuſtom of the laws of this State, ſhall loſe and forfeit to the People of this State, all ſuch lands, tenements, and hereditaments, which any ſuch offender or offenders ſhall have, of any eſtate of inheritance in his own right, in uſe or poſſeſſion, by any right, title, or means, within this State, at the time of any ſuch treaſon committed, or at any time after; and alſo all his, her, and their goods and chattels, ſaving to every perſon and perſons, their heirs and ſucceſſors, other than the offenders and their heirs, and ſuch perſon and perſons as claim to any their uſes, all ſuch rights, titles, intereſts, poſſeſſions, leaſes, rents, reverſions, offices, and other profits, which they or any of them ſhall have at the day of committing ſuch treaſons, or at any time before, in as large and ample manner as if this act had never been made.

## CHAP. XXX.

AN ACT *concerning Appeals of Felony.* Paſſed the 16th of February, 1787.

Appeals how to be made.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all appeals of things done within this State, ſhall be tried and determined according to the the laws of this State, and that no appeals ſhall be made, or in any wiſe purſued before either Houſe of the Legiſlature.

Upon that of a woman.

II. *And be it further enacted by the authority aforeſaid,* That no perſon ſhall be taken or impriſoned upon the appeal of a woman, for the death of any other than of her huſband.

III. *And*

On a rape.

III. *And be it further enacted by the authority aforeſaid*, That if any married woman or maid, or any other woman ſhall be raviſhed, and doth not conſent to the raviſher, neither before nor after the rape committed, ſuch woman ſo raviſhed, may ſue and proſecute againſt ſuch offenders by appeal, and purſue the ſame to judgment and execution. But if ſuch woman, after the rape committed, conſent to the raviſher ſhe ſhall be thereby barred of her appeal.

After a rape, &c. who may have ſuit.

*And further*, That whereſoever and whenſoever, any woman ſhall be raviſhed, and after ſuch rape do conſent to ſuch raviſher, the huſband of ſuch woman, if ſhe have a huſband, or if ſhe have no huſband in life, then her father, or other next of her blood, ſhall from henceforth have the ſuit, to purſue, and may ſue by appeal, againſt the ſame offenders and raviſhers, in this behalf, to have them thereof convicted, and purſue the ſame to judgment and execution, although the ſame woman, after ſuch rape, do conſent to the raviſher.

Appeals of murder.

IV. *And be it further enacted by the authority aforeſaid*, That in all appeals of murder, if the appellant declare the deed, the year, the day, the hour, and the town or place where the deed was done, and with what weapon the perſon killed was ſlain, the appeal ſhall ſtand good in effect and no ſuch appeal ſhallbe abated for default of freſh ſuit, if the party ſhall ſue within the year and the day after the deed done.

Murderers, &c. how arraigned.

V. *And be it further enacted by the authority aforeſaid*, That if any perſon be ſlain or murdered, and therefore the ſlayers, murderers, abettors, maintainers, and comforters of the ſame, be indicted, that the ſame ſlayers and murderers, and all other acceſſaries of the ſame, ſhall be arraigned and determined of the ſame felony and murder, at any time at the ſuit of the people of this State, within the year after the ſame felony and murder done, and not tarry the year and day for any appeal to be taken for the ſame felony or murder. And if any perſon named as principal or acceſſary, ſhall be acquitted of any ſuch murder or felony, at the ſuit of the People of this State, within the year and day, that then the ſame Juſtices before whom ſuch perſon ſhall be acquitted ſhall not ſuffer him to go at large, but ſhall either remit him again to priſon, or elſe let him to bail after their diſcretion, till that year and day be paſſed. And if the ſaid felons or murderers, and acceſſaries ſo arraigned, or any them be acquitted, or if they, or any of them happen to be attainted, the wife or next heir to the perſon ſo ſlain, as ſhall require it, may take and have their appeal of the ſame death and murder, within the year and day after the ſame felony and murder done againſt the ſaid perſons ſo arraigned and acquitted, and all other their acceſſaries, or againſt the acceſſaries of the ſaid principal, or any of them ſo attainted, or againſt the principals ſo attainted, if they be alive, and that the appellant ſhall have ſuch and the like advantage as if the ſaid acquittal or attainder had not been, the ſaid acquital or attainder notwithſtanding.

Wife or heirs of ſlain perſons may appeal, &c.

*And further*, That the wife or heirs of the ſaid perſons ſo ſlain or murdered, as the caſe ſhall require, may commence their appeal in proper perſon, at any time within the year after the ſaid felony done, before one of the Coroners of the county where the ſaid felony or murder was done, or before the people of the State of New-York, in their Supreme Court, or before Juſtices of the Gaol Delivery, or Juſtices aſſigned to hear and determine, and the appellants, in any appeals of murder or death of any perſon, or of rape, or any other felony, may make their Attornies, and appear and proſecute the ſame appeals by their attornies, after the ſame appeals be commenced, to the end of the ſuit, and execution of the ſame.

CHAP.

## CHAP. XXXI.

AN ACT *touching the bailment of Perſons.* Paſſed the 16th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That no Sheriff, Under Sheriff Coroner, Gaoler, or other Officer, ſhall let out of priſon, or permit to go at large on bail or otherwiſe, any perſon by them, or any of them arreſted, or to be arreſted, or being in their or any of their cuſtody by virtue of any writ, proceſs, warrant or commitment, for any treaſon or felony, or miſpriſion of treaſon, or upon any condemnation, execution, or *Capias Utlagatum*, or for ſurety of the peace; or any perſon taken or arreſted or committed, or to be taken, arreſted, or committed, by ſpecial commandment of any Court, or Juſtices, upon pain of being puniſhed by fine and impriſonment, and to anſwer the damages to the party grieved, if any be thereby aggrieved.

Sheriffs, &c. taking bail, to be anſwerable for the ſame.

*And for as much* as divers perſons have been arreſted and impriſoned for ſuſpicion of felony, ſometimes of malice, and ſometimes of light ſuſpicion, and ſo kept in priſon without bail or mainprize, to their great vexation and trouble, *Therefore,*

Preamble.

II. *Be it further enacted by the authority aforeſaid,* That the Juſtices of the Peace in their General Seſſions, or any two of them at the leaſt, being preſent together out of Seſſions, in every county and city of this State, ſhall have authority and power by their diſcretion, to let ſuch priſoners and perſons ſo arreſted in their reſpective cities or counties, to bail or mainprize unto their next General Seſſions, or unto the next gaol delivery, to be holden in the ſame county or city where the ſaid perſon or perſons ſhall be arreſted or ſuſpected (as the caſe may require).

How Juſtices may take bail.

*And further,* That the ſaid Juſtices, or one of them, when any ſuch priſoner ſhall be brought before them, before any bailment or mainprize, ſhall take the examination of the ſaid priſoner, and information of them that bring him, of the fact and circumſtances thereof, and the ſame, or as much thereof as as ſhall be material to prove the felony or offence, ſhall put into writing before they make the ſame bailment; which ſaid examinations, together with the ſaid bailment, the ſaid Juſtices ſhall certify in writing ſubſcribed or ſigned with their own hands, at their next General Seſſions or the next Gaol Delivery, to which the ſaid perſon or perſons ſo let to bail or mainprize ſhall be bound to appear. And the ſaid Juſtices are hereby authorized and required to bind all ſuch by recognizance, as do declare any thing material to prove the ſaid felonies or offences, to appear at their next General Seſſions or at the next Gaol Delivery, to be holden within the county or city where the trial thereof ſhall be, as the caſe may require, then and their to give evidence againſt the ſaid party, and ſhall certify ſuch recognizance and recognizances in writing as they ſhall take, to the ſame court, together with the ſaid examinations and bailment; and in caſe any Juſtice of the Peace, or Mayor, Recorder, or Alderman, acting as a Juſtice of the Peace, ſhall offend in any thing contrary to the true intent and meaning of this act, the Juſtices of the Peace, in their General Seſſions of the Peace, or the Juſtices of the Gaol Delivery of the city or county where ſuch offence ſhall be committed, upon due proof thereof by examination before them, ſhall for every ſuch offence, ſet ſuch fine on every of the ſame Juſtices of the Peace, as the ſame Juſtices of the Peace in their General Seſſions, or the Juſtices of Gaol Delivery ſhall think meet, and eſtreat the ſame as other fines and amerciaments aſſeſſed before Juſtices of the Peace, in their General Seſſions of the Peace, or before Juſtices of Gaol Delivery ought to be eſtreated.

Juſtices to take examinations in writing, &c.

To recognize witneſſes.

Juſtices of the Peace, &c. offending, to be fined.

## CHAP. XXXII.

AN ACT *concerning Sheriffs, and the Service and return of Proceſs.*
Paſſed the 19th of February, 1787.

Qualifications of Sheriffs.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That none ſhall be Sheriff of any city or county of this State, unleſs he be a ſubſtantial freeholder within the ſame city, or county, where he ſhall be Sheriff.

Sheriffs to give bonds, &c.

*And further,* that every perſon hereafter to be appointed to the office of Sheriff of any city or county within this State, before he be permitted to execute the ſaid office, ſhall enter into bond to the People of this State, in the penal ſum of two thouſand pounds, with two or more ſufficient ſureties, being freeholders jointly and ſeverally in the penal ſum of two thouſand pounds to anſwer the People of this State, and the parties, if any will complain, and conditioned that ſuch Sheriff ſhall well and faithfully in all things, perform and execute the ſaid office of Sheriff, without fraud, deceit, or oppreſſion; which bonds ſhall be filed in the Clerk's office of the counties reſpectively, for which the reſpective Sheriffs ſhall be apointed, and the ſaid Clerks reſpectively ſhall judge of and determine the competency of ſuch ſureties. And in caſe of any recovery by any party aggrieved againſt any Sheriff, for any default or miſconduct in his office, it ſhall be lawful for the Juſtices of the Supreme Court, upon motion in open court, to order the bond ſo given by ſuch Sheriff, to be put in ſuit againſt ſuch Sheriff or his ſureties, or all, or any, or either, of them, and when judgment ſhall be obtained, on ſuch bond, the ſaid Supreme Court ſhall, upon motion in open court, direct ſo much money to be levied thereon, as ſhall be ſufficient to pay the party the debt or damages ſo recovered with coſts, and to be paid to ſuch party grieved: but if ſuch Sheriff or his ſureties, or either of them, ſhall pay the debt or damages ſo recovered againſt ſuch Sheriff, with coſts, then ſuch ſuit on ſuch bond ſhall thereupon be ſtayed, and be no further proſecuted.

Bond, if forfeited, how recovered.

Proceedings after judgment on ſaid bond.

*And further,* That if after judgment obtained upon ſuch bond, any other party aggrieved, and who ſhall have recovered any debt or damages againſt ſuch Sheriff, for any default or miſconduct in his office, ſhall apply to the ſaid Supreme Court for relief, the ſaid Supreme Court ſhall, upon motion in open court, direct ſuch further ſum to be levied on ſuch judgment on ſuch bond, as ſhall be ſufficient to pay the debt or damages ſo recovered, with coſts, and to be paid to ſuch party aggrieved, and ſo as often as any recovery ſhall be had againſt ſuch Sheriff for any miſconduct or default in his office, provided that the ſureties in any bond ſhall not be charged by virtue of this act, beyond the amount of the ſums in which they are or ſhall be bound in any ſuch bond.

Proviſo.

*And provided,* that if two or more ſuch recoveries ſhall be had againſt ſuch Sheriff, in the ſame term, or at the ſame time, amounting together to more than the whole amount of the ſums contained in ſuch bond, the ſaid Supreme Court ſhall order the monies, to be levied thereupon, to be diſtributed to the parties reſpectively, in proportion to their reſpective amounts of their reſpective recoveries.

Sheriffs to have cuſtody of gaols, & appoint Keepers.

II. *And be it further enacted by the authority aforeſaid,* That the Sheriff of each of the reſpective cities and counties of this State, ſhall have the cuſtody, rule, keeping and charge of the gaols and priſons, and the priſoners in the ſame, in the ſame city or county as before this time they were wont to have; and the ſame Sheriffs reſpectively ſhall put in ſuch Keepers for whom they will anſwer: And if the Keeper or Under-Keeper of any priſon, by too great *dureſs* of impriſonment, and by pain, make any priſoner that he hath or ſhall have in his ward, to become an appellor againſt his will, it ſhall be felony, and if any Keeper be thereof convicted or attainted, he ſhall have judgment as in caſes of felony.

Penalty on Keepers mal-conduct.

III. *And be it further enacted by the authority aforeſaid,* That no Sheriff, or other officer or miniſter, by occaſion, or under colour of their or any of their office, ſhall take any other thing, or more, by themſelves, or by any other perſon, to their or any of their uſe, profit, or avail, of any perſon by them, or any of them, to be arreſted or attached,

attached, nor of any other, for the omitting of any arreſt or attachment to be made by their body, or of any perſon by them, or of any of them, by force or colour of their, or any of their office, arreſted or attached for fine, fee, ſuit of priſon, mainpriſe, letting to bail, or ſhewing any eaſe or favor, to any ſuch perſon ſo arreſted or attached, or to be arreſted or attached, for their, or any of their reward or profit, but ſuch as are or ſhall be allowed and eſtabliſhed by the law of this State.

Sheriffs annually to appoint Deputies.

*And further*, That every Sheriff in this State ſhall yearly make a Deputy of Record in the Supreme Court, to receive all manner of writs and warrants to be delivered to them.

Delinquent Sheriffs, &c. how to be puniſhed.

*And moreover*, that every Sheriff or other Officer or Miniſter, who ſhall do contrary hereto, in any point, ſhall forfeit and pay to the party in that behalf aggrieved, his treble damages, to be recovered with coſts of ſuit, and ſhall alſo forfeit the ſum of one hundred pounds at every time that they or any of them do the contrary thereof in any point, the one moiety thereof to the People of this State, and the other moiety thereof to the party who ſhall ſue for the ſame, to be recovered with coſts of ſuit, in any Court of Record by action of debt, bill, plaint, or information.

Proceedings in caſes of fear of Sheriffs malice, &c.

IV. *And be it further enacted by the authority aforeſaid*, That ſuch as do fear the malice of Sheriffs, or others having the return of writs, ſhall deliver their writs original and judicial in the county where they are to be executed, and may take of the Sheriff, Under Sheriff, or other Officer, to whom the ſame writ ſhall be directed, a certificate, wherein the names of the demandants or plaintiffs, and tenants or defendants named in the writ, and the day of delivering the writ ſhall be mentioned; and the Sheriff, or under Sheriff, or other Officer to whom the writ ſhall be directed, ſhall, at the requeſt of the party delivering the writ, put his ſeal to the ſaid certificate for a teſtimony; and if the Sheriff, or Under Sheriff, or the Officer to whom the writ ſhall be directed, will not put his ſeal to ſuch certificate, the witneſs of other credible perſons being preſent, ſhall be taken, and ſhall put their ſeals to ſuch certificate.

Sheriffs directed on receipt of writs, &c.

*And further*, that at what time or place ſoever in the county, any perſon doth deliver any writ to the Sheriff, or the Under Sheriff, or other Officer, to whom the writ ſhall be directed, they ſhall receive the ſame writ, and make a certificate thereof as aforeſaid without taking any thing therefor; and if the Sheriff or other Officer to whom the ſaid writ ſhall be directed, do not return the ſame writ, and complaint thereof be made to the court where ſuch writ ſhall be returnable, if the writ was to be executed in the ſame county where ſuch court ſhall then ſit, an inqueſt ſhall thereupon be taken in the preſence of ſuch Sheriff or other Officer, if he will attend in the ſame court, to inquire whether the writ was delivered, and what damages the party hath ſuſtained, having regard to the quality and quantity of the action and the peril that may happen by reaſon of the delay; and if it be found by the inqueſt, that the writ was delivered, the party ſhall recover his or her damages aforeſaid, againſt ſuch Sheriff, Under Sheriff, or other officer, with the coſts of taking the ſame inqueſt, and ſhall have execution for the ſame, in like manner as for damages in any other caſes; but if ſuch writ was to be executed in any other county, then a writ judicial ſhall be awarded to the Juſtices or Juſtice who ſhall hold the next circuit court in ſuch county to inquire as aforeſaid, and an inqueſt, ſhall be thereupon taken in ſuch circuit court and returned; and if it be found by the inqueſt that the writ was delivered, the party demandant or plaintiff, ſhall recover, and have execution for the damages and coſts as aforeſaid, and by the ſame means there ſhall be remedy, where the Sheriff or other Officer returns that the writ came too late, ſo that he could not execute the ſame.

What things to be deemed Iſſues.

*And moreover*, that in all caſes where the Sheriff or other Officer ſhall be commanded, that of the iſſues of the lands and chattels, of any perſon he anſwer, if the plaintiff demand hearing of the return it ſhall be granted; and if the plaintiff offer to aver that the Sheriff or other Officer might and ought to have returned greater iſſues, it ſhall be inquired by an inqueſt to be taken in the manner aforeſaid, of what and how great iſſues the Sheriff or other Officer might and ought to have made return, from the day of the writ purchaſed, unto the day of the return thereof; and if it be found that he hath not anſwered for the whole, he ſhall be charged with the overplus, and ſhall alſo be amerced for the concealment. And it is hereby declared, that rents,

corn

corn in the grange, and all moveables, (except arms, implements of trade and houſhold goods) be contained within the name of iſſues.

Sheriffs duty in caſes of reſiſtance.

V. *And be it further enacted by the authority aforeſaid*, That when the Sheriff or any of his deputies ſhall find that reſiſtance will be made againſt any proceſs of execution, the Sheriff, laying aſide all other things, and taking with him the power of the county, ſhall forthwith go in his proper perſon and do execution; and if he find reſiſtance, he ſhall certify to the court the names of the reſiſters, aiders, conſenters, commanders and favourers, and by a writ judicial they ſhall be attached by their bodies to appear in the ſame court, and if they be convicted of ſuch reſiſtance, they ſhall be puniſhed by fine and impriſonment.

Penalty on reſiſters.

Penalty on Sheriffs, &c. not ſigning their own names to returns, &c.

VI. *And be it further enacted by the authority aforeſaid*, That Sheriffs and other Officers to whom the return of any writs or proceſs ſhall appertain, ſhall put their their own names to the returns of the ſame writs and proceſs, ſo that the court may know of whom they took ſuch returns, if need be; and if any Sheriff or other Officer leave out his name in any return, he ſhall be amerced, and alſo anſwer the damages to the party.

Sheriffs, &c. to impriſon thieves & felons.

VII. *And be it further enacted by the authority aforeſaid*, That Sheriffs and Gaolers ſhall, from henceforth, receive and ſafely keep in priſon, all thieves and felons appealed, indicted or taken in the fact, who ſhall be taken and attached by conſtables and other officers, by the delivery of the conſtables and other officers, without taking any thing for the receipt.

Who authoriſed to hear and adjudge complaints againſt Sheriffs, &c.

*And further*, That as well the Juſtices of the Peace at their General Seſſions in their reſpective counties, as the Juſtices of the Supreme Court and the Juſtices of Gaol Delivery, and Juſtices aſſigned or authoriſed to hear and determine, ſhall have power to hear the complaints of thoſe who will complain againſt Sheriffs and Gaolers in ſuch caſes, and to puniſh the Sheriffs and Gaolers, if they be found guilty.

Sheriffs duty in proceſs out of Exchequer.

VIII. *And be it further enacted by the authority aforeſaid*, That every Sheriff and other Officer to whom any proceſs out of the Exchequer ſhall be directed and delivered for levying any debt, fine or forfeiture, to the people of the State of New-York, ſhall upon demand ſhew the ſame proceſs, and deliver a copy thereof to the debtor or perſon againſt whom the ſame proceſs ſhall be iſſued, without denying to any, and without taking any reward, and ſhall, upon receiving or levying the money mentioned in ſuch proceſs, lawfully acquit the debtor thereof, and account for the ſame at his next account, after he ſhall have received or levied the ſame; and if any Sheriff or other Officer do otherwiſe, and be thereof convicted, he ſhall render to the party aggrieved treble damages and coſts of ſuit, and be further puniſhed by fine, according to the diſcretion of the court wherein he ſhall be convicted.

Goods of accuſed perſons not to be arreſted, until the parties be convicted

IX. *And be it further enacted by the authority aforeſaid*, That no Sheriff or other perſon ſhall take or ſeize the goods of any perſon arreſted or impriſoned for ſuſpicion of felony, before that the ſame perſon ſo arreſted or impriſoned be convicted or attainted of ſuch felony according to law, or the ſame goods be otherwiſe lawfully forfeited, upon pain to forfeit double the value of the goods ſo taken to him who ſhall be ſo injured in that behalf, to be recovered with coſts of ſuit, in any court of record, by action of debt, bill, plaint, or information.

Preamble reſpecting goods wrongfully taken.

*And whereas*, Sheriffs and other Officers ſometimes ſieze the lands, goods, and chattels of divers perſons, ſurmiſing that they be outlawed, or their lands, goods and chattels forfeited, where they be not, becauſe that they bear ſuch names as thoſe who be outlawed, or whoſe lands, goods, and chattels be forfeited for default of good declaration of the name, ſirname and addition. For remedy whereof,

Remedy in ſuch caſe.

X. *Be it further enacted by the authority aforeſaid*, That if any will complain in ſuch caſe, he or ſhe ſhall have a writ of *identitate nominis*, and if the lands, goods or chattels of any perſon, ſhall in ſuch caſe, be ſiezed by any Sheriff or other Officer, ſuch perſon ſhall find ſurety before the Sheriff or other Officer who hath the warrant to ſieze, to anſwer to the People of this State, of the value of ſuch lands, goods and chattels, in caſe he or ſhe cannot diſcharge himſelf or herſelf, and ſuch Sheriff or other Officer, ſhall thereupon reſtore the ſame lands, goods, and chattels, to the party, without taking any thing of the party. And if ſuch Sheriff, or other Officer do not

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the ſame, and thereof be convicted, the party ſhall have ſuit againſt ſuch Sheriff or other officer, and recover his or her double damages, and coſts of ſuit; and ſuch Sheriff or other officer ſhall be further puniſhed by fine for his offence.

X. *And be it further enacted by the authority aforeſaid,* That as well the Juſtices of the Peace in their open general ſeſſions, and the Juſtices of gaol delivery, and Juſtices aſſigned or authoriſed to hear and determine, within the limits of their authority reſpectively, as the Juſtices of the Supreme Court, ſhall have full power and authority to hear and determine all offences and defaults done contrary to this act, as well by preſentment and information as indictment, and upon conviction of the offenders, to award execution for the levying of the forfeitures aforeſaid, by *fieri facias*, attachment, *capias*, or exigent.

Juſtices, &c. to hear and determine offences againſt this act.

## CHAP. XXXIII.

AN ACT *that the ſolemn Affirmation and Declaration of the People called Quakers, ſhall be accepted inſtead of an oath.* Paſſed the 19th of February, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That every Quaker who ſhall be required, upon any lawful occaſion, to take an oath, in any caſe where by law an oath is required, ſhall, inſtead of the uſual form, be permitted to make his or her ſolemn affirmation or declaration in the words following, to wit; "I —— ——, do ſolemnly, ſincerely and truly declare and affirm." Which ſolemn affirmation or declaration ſhall be adjudged and taken, and is hereby enacted and declared, to be of the ſame force and effect, to all intents and purpoſes, in all Courts of Juſtice, and other places where by law an oath is required, as if ſuch quaker had taken an oath in the uſual form.

Quakers allowed affirmation inſtead of an oath, and the form thereof.

II. *And be it further enacted by the authority aforeſaid,* That in all caſes wherein by any act or acts of the Legiſlature of this State, now in force, or hereafter to be made, an oath is or ſhall be allowed, authoriſed, directed or required, the ſolemn affirmation or declaration in the form above deſcribed, of any of the people who ſhall be a member of the religious ſociety of the people called Quakers, or ſhall uſually aſſociate with the people called Quakers, in their religious worſhip, or be generally reputed to be a Quaker, ſhall be allowed and taken inſtead of ſuch oath, although no particular or expreſs proviſion be made for that purpoſe, in ſuch act or acts: And all perſons who are or ſhall be authoriſed or required to adminiſter ſuch oath, ſhall be, and hereby are authoriſed and required to adminiſter the ſaid affirmation or declaration. And the ſaid ſolemn affirmation or declaration ſo made as aforeſaid, ſhall be adjudged and taken, and is hereby enacted and declared to be of the ſame force and effect, to all intents and purpoſes, in all Courts of Juſtice, and other places, where by law an oath is or ſhall be allowed, authoriſed, directed, or required, as if ſuch Quaker had taken an oath in the uſual form.

Such affirmation to be received in all caſes.

III. *And be it further enacted by the authority aforeſaid,* That if any perſon making ſuch ſolemn affirmation or declaration, ſhall be lawfully convicted of having wilfully, falſely, and corruptly affirmed and declared any matter or thing, which if the ſame had been depoſed in the uſual form, would have amounted to wilful and corrupt perjury, every perſon ſo offending, ſhall incur and ſuffer the like pains, penalties and forfeitures, as by the laws and ſtatutes of this State, are or ſhall be directed to be inflicted on perſons convicted of wilful and corrupt perjury. *Provided always,*

Penalty for making falſe affirmation.

IV. *And be it further enacted by the authority aforeſaid,* That no Quaker, or reputed Quaker, ſhall by virtue of this act, be compelled to ſerve on any juries in criminal caſes, nor to act as an aſſeſſor or collector, any thing in this act to the contrary notwithſtanding.

Quakers exempt from ſeveral duties.

## CHAP. XXXIV.

AN ACT *to amend the Charter of the Corporation for the relief of the Widows and Children of Clergymen in the Communion of the Church of Englad in America.* Paſſed the 19th of February, 1787.

Stile of the Corporation altered.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the ſaid Corporation hereafter, in all their acts and proceedings, and in all ſuits, pleas, deeds, gifts, obligations, matters and things, in any wiſe reſpecting the ſame, ſhall be called and known by the name or ſtile of "The Corporation for the relief of the widows and children of Clergymen of the Proteſtant Epiſcopal Church in the United States of America," the ſaid charter, or any clauſe thereof, or uſage thereupon notwithſtanding.

*And whereas*, it is provided by the ſaid charter, that the bye-laws of the ſaid Corporation ſhall not be contrary to the laws of that part of Great-Britain called England.

Certain clauſe in the charter repealed.

II. *Be it enacted by the authority aforeſaid,* That the ſaid clauſe be, and the ſame hereby is repealed.

and another to be inſerted in its ſtead.

III. *And be it further enacted and provided,* Inſtead thereof that the bye-laws or regulations of the ſaid Corporation, ſhall not be repugnant to the conſtitution or laws of this State.

Laſt clauſe of former charter repealed

IV. *And be it further enacted by the authority aforeſaid,* That the laſt clauſe in the ſaid charter, ſubjecting the accounts and proceedings of the ſaid Corporation to the reviſal and ratification therein expreſſed, be and the ſame is hereby repealed and annulled.

How the accounts, &c. of the Corporation to be ratified.

V. *And it is hereby enacted,* That the ſaid accounts may, in the manner directed by the ſaid charter hereafter be ratified and confirmed by the Governor, the Chancellor, and the Chief Juſtice of this State for the time being, or any two of them; or be ſubjected by them or any two of them to ſuch reviſal, check, and confirmation, as by them or any two of them, may be thought juſt and reaſonable.

Charter confirmed.

VI. *And be it further enacted by the authority aforeſaid,* That the ſaid charter and every part thereof, as altered and amended by this act, be, and the ſame hereby is confirmed, the non-uſer of the powers and privileges thereby granted, in any wiſe notwithſtanding.

## CHAP. XXXV.

AN ACT *concerning Councellors, Attorneys, Solicitors, Advocates, and Proctors of the ſeveral Courts in this State.* Paſſed the 20th of February, 1787.

In what caſes perſons may appear by attornies.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall be lawful for all and every perſon and perſons whomſoever, of full age and ſound memory, other than defendants in caſes where corporal puniſhments may be inflicted, to make and appear by his, her or their Attorney or Attornies, in all and every or any ſuit, action, or plea, real or perſonal, moved or to be moved, by or againſt him, her, or them, in any court in this State; and to commence, purſue, proſecute, or defend the ſame ſuit, action, or plea, in perſon, or by his, her, or their Attorney or Attornies.

Warrants of attorney how to be taken.

II. *And be it further enacted by the authority aforeſaid,* That all warrants of attorney of the parties, or of any or either of them, in all ſuits, actions, and pleas, in any court of record, ſhall be taken before the Judges or Juſtices of the reſpective courts in which the ſame ſuit, action, or plea, is or ſhall be depending, or one of them, or before the Chancellor of this State for the time being, who ſhall certify and ſend the warrants of

of attorney before him taken, to the Judges or Juſtices of the court in which the ſuit, action, or plea, is or ſhall be depending.

*And further*, That ſuch as cannot conveniently come before any or either of the Judges or Juſtices of the Court in which ſuch ſuit, action, or plea, is or may be depending, or before the Chancellor, to make his, her or their Attorney or Attornies in the ſame ſuit, action or plea, may appear before ſuch Judges, Juſtice, or Chancellor, or either of them, by his, her, or their Agent or Attorney, having ſufficient authority therefor in writing, by letter of attorney, or otherwiſe, from the perſon or perſons in whoſe behalf ſuch ſuit, action or plea is or may be depending; and in caſes where it may be neceſſary, ſhall have a writ out of the Chancery to ſome ſufficient man, to receive his, her or their warrant of attorney in the ſame ſuit, action, or plea; and in all caſes where any infant is or ſhall be entitled to any ſuit or action, ſome or one of the next friends of ſuch infant ſhall be admitted in manner aforeſaid to ſue and proſecute for ſuch infant. And if any infant is or ſhall be impleaded, a guardian ſhall be appointed in manner aforeſaid for ſuch infant, to defend the ſame ſuit, action or plea, for the ſame infant.

Proceedings in caſe of non-attendance.

III. *And be it further enacted by the authority aforeſaid*, That no perſon ſhall henceforth be admitted a Councellor, Attorney, Solicitor, Advocate or Proctor, in any court but ſuch as have been brought up in the ſame court, or are otherwiſe well practiſed in ſoliciting cauſes, and have been found by their dealings to be ſkillful, and of honeſt diſpoſition, and that every perſon hereafter to be admitted a Counſellor, Attorney, Solicitor, Advocate or Proctor of any court, ſhall, before ſuch admiſſion, be examined by the Judges or Juſtices of the ſame court, and ſuch only as ſhall be found virtuous and of good fame, and of ſufficient learning and ability ſhall be admitted, and their names ſhall be put in a roll or book to be kept in each court reſpectively, for that purpoſe; and each and every perſon ſo admitted ſhall, upon ſuch admiſſion, in open court, take and ſubſcribe an oath of office in the words following; "I —— ——, do ſwear that I will truly and honeſtly demean myſelf in the practice of an Attorney, (or of a Councellor, Solicitor, or Proctor, or of an Advocate, as the caſe may be) according to the beſt of my knowledge and ability."

What perſons to be admitted as Attornies, &c.

Attornies, &c. to take an oath.

IV. *And be it further enacted by the authority aforeſaid*, That if any Counſellor, Attorney, Solicitor, Advocate or Proctor of any court, heretofore admitted or or hereafter to be admitted, ſhall be found notoriouſly in default of record or otherwiſe, he ſhall be put out of the roll, and never after be received to act as a Counſellor, Attorney, Solicitor, Advocate, or Proctor, in any court.

In what caſes Attornies to be proſcribed.

*And further*, That when any attorney ſhall die, or ceaſe to act, or be put out of the roll of Attornies, the perſons for whom he was Attorney, ſhall be warned to appoint another Attorney in his place, ſo that in the mean time no damage or prejudice may come to the party.

Proceedings in caſe of Attorney's death.

V. *And be it further enacted by the authority aforeſaid*, That if any Counſellor, Attorney, Solicitor, Pleader, Advocate, Proctor, or other, do any manner of deceit or colluſion in any court of Juſtice, or conſent unto it in deceit of the court, or to beguile the court or the party, and thereof be convicted, he ſhall be puniſhed by fine and impriſonment, and ſhall moreover pay to the party grieved treble damages, and coſts of ſuit.

Penalty on deceit of Attornies, &c.

VI. *And be it further enacted by the authority aforeſaid*, That if any Attorney, Solicitor, or Proctor, do or ſhall wilfully delay his Client's ſuit, to work his own gain, or wilfully demand by his bill any ſums of money or allowance, for or upon account of any money which he hath not laid out or diſburſed, or become anſwerable for, in every ſuch caſe the party grieved ſhall have his or her action againſt ſuch Attorney, Solicitor, or Proctor, and recover therein treble damages and coſts of ſuit: And ſuch Attorney, Solicitor, or Proctor, ſhall thereupon be put out of the roll, and be diſcharged from thenceforth from being an Attorney, Solicitor, or Proctor any more.

Penalty on delays, or extravagant demands.

VII. *And be it further enacted by the authority aforeſaid*, That no Attorney, Solicitor, or Proctor, ſhall commence any ſuit or action for recovery of any fees, charges or diſburſements, until eight days after he ſhall have delivered to the party to be charged therewith, or left for him or her, at his or her dwelling houſe, or laſt place of abode, a bill of ſuch fees, charges, and diſburſements, written in a common legible hand, in the Engliſh

Attornies how and when to commence ſuits for fees, &c.

Engliſh tongue, (except law terms, and the names of writs, and in words at length except times and ſums, and ſuch abbreviations as are commonly uſed in the Engliſh language, ſubſcribed with the proper hand of ſuch Attorney, Solicitor, or Proctor.

Attornies, &c. to file their warrant in court.

VIII. *And be it further enacted by the authority aforeſaid,* That the Attorney for the Plaintiff or Demandant in every action or ſuit, ſhall file his warrant of Attorney with the proper officer of the court where the cauſe is or ſhall be depending, the ſame term he declares, and the Attorney for the Defendant or Tenant ſhall file his warrant of Attorney as aforeſaid, the ſame term he appears, upon pain to forfeit for every neglect or offence, the ſum of ten pounds, to be recovered by action of debt, bill, plaint, or information; the one moiety thereof to the uſe of the People of this State, and the other moiety thereof to the officer to whom or in whoſe office the ſame warrant ſhould be delivered, entered or filed; and alſo to make ſatisfaction to the party grieved, according to the diſcretion of the court where any ſuch default or neglect ſhall be had or made.

Attorney to ſign proceſs.

IX. *And be it further enacted by the authority aforeſaid,* That every proceſs for arreſting, and every writ of execution, or ſome label annexed, ſhall, before ſervice or execution thereof, be ſubſcribed or indorſed with the name of the Attorney or perſon by whom the ſame proceſs or writ of execution ſhall be ſued forth.

Attorney to be diſabled to practiſe who ſuffers another to ſue out a writ in his name.

X. *And be it further enacted by the authority aforeſaid,* That if any Attorney of any Court of Record, ſhall knowingly and willingly permit or ſuffer any other perſon to ſue out any writ, or commence, proſecute, or defend any action or ſuit, in his name, and be thereof convicted, he ſhall be put out of the roll of Attornies, and from the time of ſuch conviction be diſabled to practice in ſuch court.

And ſuch Attorney, as well as the perſon iſſuing a writ in his name ſubject to a penalty.

*And further,* That as well the ſame attorney as he who ſhall ſue out any ſuch writ, or commence, proſecute or defend any ſuch action or ſuit, ſhall each of them forfeit for every ſuch offence, the ſum of twenty pounds, the one moiety thereof to the People of this State, and the other moiety thereof to the party grieved, to be recovered by action of debt, bill, plaint or information in any Court of Record.

Sheriffs, &c. reſtricted from practiſing.

XI. *And be it further enacted by the authority aforeſaid,* That from and after the firſt day of May next, no Clerk or Regiſter or Deputy Regiſter, of any court, nor any Examiner or Maſter of the Court of Chancery, ſhall act as a Counſellor, Attorney, Solicitor, Advocate, or Proctor, in any ſuit, action, or matter in the ſame court; and that no Under-Sheriff, Sheriff's Clerk, Coroner, or Bailiff, ſhall, during his continuance in office, act as Counſellor, Attorney, Solicitor, Advocate, or Proctor, in any court whatſoever.

Proviſo.

*Provided nevertheleſs,* That every ſuch Clerk, Regiſter, or Deputy Regiſter, Examiner, or Maſter of the Court of Chancery, who now practices as Counſellor, Attorney, Solicitor, Advocate, or Proctor, ſhall and may proceed to proſecute ſuch actions and ſuits, in which he now is, or before the firſt day of May next, ſhall be Attorney of Record, Solicitor or Proctor, until ſuch ſuit or action is finally concluded.

CHAP.

## CHAP. XXXVI.

AN ACT *concerning Tenures.* Paſſed the 20th of February, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame:* That it ſhall forever hereafter be lawful for every freeholder to give, ſell, or alien the lands or tenements, whereof he or ſhe is or at any time hereafter ſhall be ſeized in fee ſimple, or any part thereof at his or her pleaſure; ſo always that the purchaſer ſhall hold the lands or tenements ſo given, ſold, or aliened, of the chief lord, if there be any, of the ſame fee, by the ſame ſervices and cuſtoms by which the perſon or perſons making ſuch gift, ſale or alienation, before held the ſame lands or tenements. And if ſuch freeholder give, ſell, or alien only a part of ſuch lands or tenements to any the feoffee or alienee, ſhall immediately hold ſuch part of the chief lord, and ſhall be forthwith charged with the ſervices for ſo much as pertaineth or ought to pertain to the ſaid chief lord for the ſame parcel, according to the quantity of the land or tenement ſo given, ſold or aliened; and ſo in this caſe, the ſame part of the ſervice ſhall remain to the lord to be taken by the hands of the feoffee or alienee, for which he or ſhe ought to be attendant and anſwerable to the ſame chief lord, according to the quantity of the land or tenement given, ſold, or aliened, for the parcel of the ſervice ſo due.

Freeholders may alien their lands, &c.

II. *And be it further enacted by the authority aforeſaid,* That all wardſhips, liveries, *primer ſeiſins and ouſterlemains*, values and forfeitures of marriages, by reaſon of any tenure by knights ſervice, and all mean rates, and all other gifts, grants, and charges incident or ariſing for or by reaſon of wardſhips, liveries, *primer ſeiſins or ouſterlemains*, ſhall be, and hereby are declared to be taken away and diſcharged, from the thirtieth day of Auguſt, in the year of our Lord one thouſand ſix hundred and ſixty-four: And that all fines for alienations, ſeizures, and pardons for alienations, tenure by *homage*, and all charges incident or ariſing for or by reaſon of wardſhip, livery, *primer ſeiſin*, *ouſterlemain*, or tenure by knights ſervice, *eſcuage*, and alſo relief, and aid *pur file marrier*, *and pur fair fitz chivalier*, and all other charges incident thereunto, ſhall be, and hereby are likewiſe declared to be taken away and diſcharged from the ſaid thirtieth day of Auguſt, in the year of our Lord one thouſand ſix hundred and ſixty-four; and that all tenures by knights ſervice, and by knights ſervice *in capite*, and by ſoccage *in capite*, and the fruits and conſequents thereof happened, and which ſhall or may hereafter happen or ariſe thereupon or thereby, ſhall be, and hereby are declared to be taken away and diſcharged, and forever aboliſhed, any law, ſtatute, cuſtom, or uſage to the contrary thereof in any wiſe notwithſtanding.

Charges incident on wardſhips, liveries, &c. taken away.

III. *And be it further enacted by the authority aforeſaid,* That all tenures of any honours, manors, lands, tenements, or hereditaments, or of any eſtate of inheritance at the common law, held either of the King, or of any other perſon or perſons, bodies politic or corporate, at any time before the fourth day of July, in the year of our Lord one thouſand ſeven hundred and ſeventy-ſix, are hereby declared to be turned into free and common ſoccage, to all intents and purpoſes, and ſhall be conſtrued, adjudged, and deemed to be free and common ſoccage, from the time of the creation thereof, and forever thereafter; and that the ſame honours, manors, lands, tenements, and hereditaments, ſhall forever hereafter ſtand and be diſcharged of all tenure by homage, eſcuage, voyages royal, and charges for the ſame, wardſhips incident to tenure by knights ſervice, and values and forfeitures of marriage, and all other charges incident to tenure by knights ſervice and of and from relief, *aid pur file marrier*, and *aid pur fair fitz chivalier*, any law, ſtatute, uſage, or cuſtom to the contrary in any wiſe notwithſtanding.

Tenures by knights ſervice, &c. aboliſhed.

IV. *And be it further enacted by the authority aforeſaid,* That all conveyances and deviſes of any manors, lands, tenements, or hereditaments, at any time heretofore made, ſhall be expounded to be of ſuch effect as if the ſame manors, lands, tenements, and hereditaments had been then held, and continued to be holden in free and common ſoccage only, any law, ſtatute, cuſtom, or uſage to the contrary hereof in any wiſe notwithſtanding. *Provided always,*

Tenures of honours, &c. how to be expounded.

This act not to take away rents certain, &c.

V. *And be it further enacted by the authority aforeſaid*, That this act, or any thing herein contained, ſhall not take away, nor be conſtrued to take away or diſcharge any rents certain, or other ſervices, incident or belonging to tenure in common ſoccage, due or to grow due to the People of this State, or any mean lord, or other private perſon, or the fealty or diſtreſſes incident thereunto.

Tenures held by Letters Patent under the Great Seal of this State, to be allodial, and not feudal.

VI. *And be it further enacted by the authotity aforeſaid*, That the tenure upon all gifts, grants, and conveyances heretofore made, or hereafter to be made, of any manors, lands, tenements, or hereditaments, of any eſtate of inheritance, by any letters patent under the great ſeal of this State, or in any other manner by the People of this State, or by the Commiſſioners of Forfeitures, ſhall be and remain *allodial*, and not *feudal*, and ſhall forever hereafter be taken and adjudged to be and continue in free and pure *allodium* only; and ſhall be forever diſcharged of all wardſhip, value and forfeiture of marriage, livery, *primer ſeiſin*, *ouſterlemain*, relief, *aid pur file marrier*, *aid pur fair fitz chivalier*, rents, renders, fealty, and all other ſervices whatſoever, any law, ſtatute, reſervation, cuſtom, or uſage to the contrary hereof, in any wiſe notwithſtanding.

## CHAP. XXXVII.

### An ACT *concerning Uſes*. Paſſed the 20th of February, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That where any perſon or perſons ſtand or be ſeized, or at any time hereafter ſhall ſtand or be ſeized of and in any manors, meſſuages, lands, tenements, rents, ſervices, reverſions, remainders, or other hereditaments, to the uſe, confidence, or truſt, of any other perſon or perſons, or of any body politic, by reaſon of any bargain, ſale, feoffment, fine, recovery, covenant, contract, agreement, will, or otherwiſe, by any manner of means whatſoever, in every ſuch caſe, all and every ſuch perſon and perſons, and bodies politic, that have, or hereafter ſhall have, any ſuch uſe, confidence, or truſt, in fee ſimple, for term of life, or of years, or otherwiſe, or any uſe, confidence, or truſt, in remainder or reverſion, ſhall from henceforth ſtand and be ſeiſed, deemed, and adjudged, in lawful ſeiſin, eſtate, and poſſeſſion of and in the ſame manors, meſſuages, lands, tenements, rents, ſervices, reverſions, remainders, and hereditaments, with their appurtenances, to all intents, conſtructions, and purpoſes in the law, of and in ſuch like eſtates, as they had, or ſhall have, in uſe, truſt or confidence, of or in the ſame; and that the eſtate, title, right and poſſeſſion that was or ſhall be in ſuch perſon or perſons that were or hereafter ſhall be ſeiſed of any lands, tenemenents, or hereditaments, to the uſe confidence or truſt, of any ſuch perſon or perſons, or of any body politic, be from henceforth clearly deemed and adjudged to be in him, her, or them, that have or hereafter ſhall have ſuch uſe, confidence or truſt, after ſuch quality, manner, form and condition, as they had before, in or to the uſe, confidence or truſt that was or ſhall be in them.

Perſons ſeiſed of property in truſt, how to be conſidered.

27 Henr. 8. c. 10

*And further*, That where divers perſons be, or hereafter ſhall be jointly ſeized of and in any lands, tenements, rents, reverſions, remainders, or other hereditaments, to the uſe, confidence, or truſt, of any of them ſo jointly ſeized, in every ſuch caſe the perſon or perſons who have, or hereafter ſhall have, any ſuch uſe, confidence, or truſt, in any ſuch lands, tenements, rents, reverſions, remainders, or hereditaments, ſhall from henceforth have, and be deemed and adjudged to have, only to him or them that have, or hereafter ſhall have, ſuch uſe, confidence, or truſt, ſuch eſtate, poſſeſſion, and ſeiſin, of and in the ſame lands, tenements, rents, reverſions, remainders, and other hereditaments, in like nature, manner, form, condition, and courſe, as he or they had before, in the uſe, confidence, or truſt, of the ſame lands, tenements, rents, reverſions, remainders, or hereditaments; ſaving and reſerving to all and ſingular perſons and bodies politic, their heirs and ſucceſſors, other than the perſon or perſons who be ſeiſed, or hereafter ſhall be ſeiſed of any lands, tenements, or hereditaments, to any uſe, confidence, or truſt, all ſuch right, title, entry, intereſt, poſſeſſion, rents, and action, as they, or any of them had, or might have had, before the making of this act; and ſaving and reſerving

Joint poſſeſſors in truſt, &c.

alſo,

alſo, to all and ſingular thoſe perſons, and to their heirs, who be, or hereafter ſhall be ſeiſed to any uſe, all ſuch former right, title, entry, intereſt, poſſeſſion, rents, cuſtoms, ſervices, and action, as they, or any of them, might have had, to his or their own proper uſe, in or to any manors, lands, tenements, rents, or hereditaments, whereof they be, or hereafter ſhall be ſeiſed, to any other uſe, as if this act had never been made.

Perſons adjudged to be in ſeiſin of rents, &c.

II. *And be it further enacted by the authority aforeſaid*, that where any perſon or perſons, ſtand and be ſeized, or hereafter ſhall ſtand and be ſeiſed of and in any lands, tenements or hereditaments, in fee ſimple, or otherwiſe, to the uſe or intent that ſome other perſon or perſons ſhall have and perceive yearly to them, and to his or their heirs, one annual rent of ten pounds, or more or leſs, out of the ſame lands, tenements and hereditaments, and ſome other perſon or perſons, one other annual rent to him or them and their aſſigns, for term of life or years, or for ſome other ſpecial time, according to ſuch intent and uſe as heretofore hath been, or hereafter ſhall be declared, limitted and made thereof, in every ſuch caſe, the ſame perſons, their heirs and aſſigns, and every of them, who have ſuch uſe and intereſt, to have and perceive any ſuch annual rents, out of any lands, tenements or hereditaments, ſhall be adjudged and deemed to be in poſſeſſion and ſeiſin of the ſame rent, of and in ſuch like eſtate as they had in the title, intereſt or uſe of the ſaid rent or profit, and as if a ſufficient grant or other lawful conveyance had been made and executed to them, by ſuch as were or ſhall be ſeized, to the uſe or intent of any ſuch rent to be had, made or paid, according to the very truſt and intent thereof; and that all and every ſuch perſon and perſons as have or hereafter ſhall have any title, uſe and intereſt, in or to to any ſuch rent or profit, ſhall lawfully diſtrain for non payment of the ſaid rent, and in their own names make avowries, or by their bailiffs or ſervants make cognizances and juſtifications, and have all other ſuits, entries and remedies for ſuch rents, as if the ſame rents had been actually and really granted to them, with ſufficient clauſes of diſtreſs, re-entry or otherwiſe, according to ſuch conditions, pains, or other things limited and appointed, upon the truſt and intent, for payment or ſurety of ſuch rent.

Remedy for perſons ſeiſed of lands by force of this act.

III. *And be it further enacted by the authority aforeſaid*, That all and ſingular perſon and perſons, and bodies politic, which have or ſhall have any eſtate unto them executed, of and in any lands, tenements or hereditaments, by the authority of this act, ſhall and may have and take the ſame or like advantage, benefit, voucher, aid, prayer, remedy, commodity, and profit, by action, entry, condition, or otherwiſe, to all intents, conſtructions and purpoſes as the perſon or perſons ſeized to their uſe, of or in any ſuch lands, tenements, or hereditaments ſo executed, had, ſhould, might, or ought to have had at the time of the execution of the eſtate thereof, by the authority of this act, againſt any other perſon or perſons, of or for any waſte, deſeiſin, treſpaſs, condition broken, or any other offence, cauſe or thing, concerning or touching the ſaid lands or tenements, ſo executed by the authority of this act.

Sheriffs duty on this act.

IV. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for every Sheriff, and other Officer to whom any writ or precept is or ſhall be directed, at the ſuit of any perſon or perſons, of, for and upon any judgment or recognizance, made or had, or hereafter to be made or had, to do, make and deliver execution unto the party in that behalf ſueing, of all ſuch lands, tenements, rents, and hereditaments, as any other perſon or perſons be in any manner of wiſe ſeized or poſſeſſed, or hereafter ſhall be ſeized or poſſeſſed to the uſe or in truſt for him againſt whom execution is ſo ſued, like as the Sheriff or other officer might or ought to have done, if the ſaid party againſt whom execution is or ſhall be ſo ſued, had been ſeiſed of ſuch lands, tenements, rents, or other hereditaments, of ſuch eſtate as he is or ſhall be ſeiſed of, in the uſe or truſt, at the time of the ſaid execution ſued; and ſuch lands, tenements, rents, and other hereditaments, by force and virtue of ſuch execution, ſhall accordingly be held and enjoyed, freed, and diſcharged of all incumbrances of ſuch perſon or perſons as are or ſhall be ſo ſeiſed or poſſeſſed, to the uſe or in truſt for the perſon againſt whom ſuch execution is or ſhall be ſued; and if any perſon intitled to, or having any ſuch uſe or truſt, hath deviſed, or ſhall deviſe the ſame, by his laſt will, or hath died, or ſhall die inteſtate, leaving the ſame to deſcend to his heirs, the ſame ſhall be liable to the debts of the teſtator or inteſtate, and deemed and taken to be aſſeſts in the hands

of

of the heirs or deviſees, who ſhall be chargeable for the ſame, in like manner as they are by law chargeable and liable in caſes where lands or tenements deſcend, or are deviſed to them, and not otherwiſe.

Where Recoveries ſhall be good againſt the ſellers, feoffers, or donors, &c.

V. *And be it further enacted by the authority aforeſaid*, That every eſtate, feoffment, gift, grant, leaſe, releaſe and confirmation of lands, tenements, rents, ſervices, or hereditaments, made or had, or hereafter to be made or had, by any perſon or perſons being of full age, of ſound mind, at large, and not in dureſs to any perſon or perſons, and all recoveries and executions had or made, or to be had or made, ſhall be good and effectual to him, her, or them to whom it is ſo made, had, or given, and to all others, to his, her, or their uſe, againſt the ſeller, feoffer, donor, or grantor thereof, and againſt the ſellers, feoffers, donors, or grantors, his, her, and their heirs, claiming the ſame only as heir or heirs to the ſame ſellers, feoffers, donors, or grantors, and every of them, and againſt all others having or claiming any title or intereſt in the ſame, only to the uſe of the ſame ſeller, feffoer, donor, or grantor, ſellers, feoffers, donors, or grantors, or his, her, or their ſaid heirs, at the time of the bargain, ſale, covenant, gift, or grant made,

## CHAP. XXXVIII.

AN ACT *for ſettling Inteſtates eſtates, proving wills, and granting Adminiſtrations.* Paſſed the 20th of February, 1787.

Who to be adminiſtrators to inteſtates eſtates.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That adminiſtration of the goods, chattels, and credits of any perſon dying inteſtate, ſhall be committed or granted to the widow, or next of kin of the inteſtate, or to ſome or one of them, if they, or any, or either of them will accept the ſame; and if neither of them will accept the ſame, then to ſuch other proper perſon or perſons as will accept the ſame; and ſuch adminiſtrators ſhall have the benefit, and incur the charge of, and be accountable as executors.

Goods how to be diſtributed.

II. *And be it further enacted by the authority aforeſaid*, That juſt and equal diſtribution of what remaineth clear, of the goods and perſonal eſtate of any perſon dying inteſtate, after all debts, funeral charges, and juſt expences of every ſort firſt allowed and deducted, ſhall be made amongſt the wife and children, or childrens children, if any ſuch there be, or otherwiſe to the next of kindred to the inteſtate, in equal degree, or legally repreſenting their ſtocks, each according to his or her reſpective right, purſuant to the laws in ſuch caſes, and the rules and limitations herein after ſet down.

Such diſtribution how to be apportioned.

III. *And be it further enacted by the authority aforeſaid*, That the whole ſurpluſſage of the goods and perſonal eſtate of every perſon dying inteſtate, ſhall be diſtributed in manner and form following, *that is to ſay*, One third part of the ſurpluſſage to the wife of the inteſtate, and all the reſidue by equal portions to and amongſt the children of ſuch perſons dying inteſtate, and ſuch perſons as legally repreſent ſuch children, in caſe any of the ſaid children be then dead, other than ſuch child or children who ſhall have any eſtate by ſettlement, or ſhall be advanced by the inteſtate, in his life time, by portion or portions, equal to the ſhare which ſhall by ſuch diſtribution be allotted to the other children to whom ſuch diſtribution is to be made, and in caſe any child ſhall have any eſtate by ſettlement from the ſaid inteſtate, or ſhall be advanced by the ſaid inteſtate in his life time, by portion not equal to the ſhare which will be due to the other children by ſuch diſtribution as aforeſaid, then ſo much of the ſurpluſſage of the eſtate of ſuch inteſtate ſhall be diſtributed to ſuch child or children as ſhall have any land by ſettlement from the inteſtate, or were advanced in the life time of the inteſtate, as ſhall make the eſtate of all the ſaid children to be equal, as near as can be eſtimated.

And

How eſtates ſhall be diſtributed where are no children.

And in caſe there be no children, nor any legal repreſentatives of them, then one moiety of the ſaid eſtate ſhall be allotted to the wife of the ſaid inteſtate, and the reſidue of the ſaid eſtate ſhall be diſtributed equally to every of the next of kindred of the inteſtate, who are, in equal degree, and thoſe who repreſent them; but no repreſentation ſhall be admitted among collaterals, after brothers and ſiſters children.

Where there are neither wife nor children.

And in caſe there be no wife, then all the ſaid eſtate to be diſtributed equally to and amongſtthe children; and in caſe there be no child, then to the next of kindred in equal degree of or unto the inteſtate, and their legal repreſentatives as aforeſaid, and in no other manner whatſoever.

Where a child dies without iſſue, after his father's death.

IV. *And be it further enacted by the authority aforeſaid*, That if after the death of a father, any of his children ſhall die inteſtate, without wife or children, in the life time of the mother, every brother and ſiſter, and the repreſentatives of them, ſhall have an equal ſhare with her, any thing in this act, or any law, uſage, or cuſtom to the contrary notwithſtanding.

This act not to extend to feme coverts dying inteſtate

V. *And be it further enacted by the authority aforeſaid*, That neither this act, nor any thing therein contained, reſpecting the diſtribution of inteſtates eſtates, ſhall be conſtrued to extend to the eſtates of *feme coverts* that ſhall die inteſtate, but that their huſbands may demand and have adminiſtration of their rights, credits, and other perſonal eſtates, and recover and enjoy the ſame as fully as they might have done before the paſſing of this act.

Surrogates to be appointed for each county.

VII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the perſon adminiſtering the government of this State for the time being, by and with the advice and conſent of the Council of Appointment, from time to time, and at all times hereafter, to nominate and appoint, during the pleaſure of the ſaid Council, and commiſſionate, under the great ſeal of this State, a Surrogate in each and every county of this State, who ſhall be, and hereby are reſpectively authoriſed and impowered to take the proof of the laſt wills and teſtaments, and codicils, of all perſons dying in the ſeveral counties for which ſuch Surrogates ſhall be reſpectively appointed and commiſſioned, and to make and iſſue probates thereof, and to grant letters teſtamentary thereon, and to grant adminiſtrations, with the will annexed, in all caſes where it may be neceſſary or proper, and to grant letters of adminiſtration of the goods, chattels, and credits of all perſons dying inteſtate in the reſpective counties for which ſuch Surrogates ſhall be reſpectively appointed and commiſſioned. And if it ſo happen that any perſon who is or ſhall be an inhabitant in any part of this State, ſhall die while abſent from home upon a journey or buſineſs, the will of ſuch perſon, if he or ſhe ſhall have made any, ſhall be proved before, and the probate thereof granted, or if ſuch perſon ſhall die inteſtate, adminiſtration of his or her goods, chattels, and credits, ſhall be granted by the Surrogate of the county where ſuch perſon ſo dying was an inhabitant; as if ſuch perſon had died at home.

Their power and duty.

Letters teſtamentary, &c. to be in the name of the People of this State, and teſted by the Surrogate.

*And further*, That ſuch letters teſtamentary and adminiſtrations ſhall be made in the name of the People of the State of New-York, and teſted in the name of the Surrogate who ſhall grant or iſſue the ſame, and be ſealed with his ſeal of office; and all ſuch probates, letters teſtamentary, and adminiſtrations, ſhall be as good, valid, and effectual, to all intents and purpoſes, as if the ſame were made, granted, and iſſued by the Judge of the Court of Probates of this State, any law, uſage, or cuſtom to the contrary notwithſtanding.

Surrogates to provide ſeals of office.

VII. *And be it further enacted by the authority aforeſaid*, That each of the ſaid Surrogates ſhall, at his own expence, cauſe a ſeal to be made for his office, with ſuch device as they may reſpectively think proper, upon which ſeal ſhall be inſcribed the name of the county for which it is to be uſed, and the words *Surrogate Seal*, and ſhall deliver a deſcription in writing of ſuch ſeal to the Secretary of this State, who ſhall depoſit and record the ſame in his office, there to remain as a public record of this State.

To record wills, &c.

VIII. *And be it further enacted by the authority aforeſaid*, That each of the ſaid Surrogates ſhall record (in books to be provided for that purpoſe at his own expence) all wills proved before him, together with the proof thereof, and all letters teſtamentary

and adminiſtrations by him iſſued or granted, with all things concerning the ſame, which records ſhall be of the ſame force, validity, and effect as the like records in the office of the Judge of the Court of Probates of this State.

Original wills, after being recorded, to be returned.

*And further*, That all wills proved before any ſuch Surrogate ſhall, upon demand, after the ſame are copied by the Surrogate, be returned to the perſon who delivered the ſame to ſuch Surrogate; or in caſe of the death, inſanity, or removal of ſuch perſon from this State, before the will ſhall be delivered to ſuch perſon, then ſuch will to be returned to any Deviſee named in ſuch will, or to the heirs or aſſigns of ſuch Deviſee; and in caſe of demand of ſuch will from the Surrogate, by ſuch Deviſee, or the heirs or aſſigns of ſuch Deviſee, on the ſuggeſtion of the death, inſanity, or removal from this State, of the perſon who delivered the will, the Surrogate ſhall not be compelled to deliver ſuch will, until the truth of the ſuggeſtion ſhall be proved to him by the oath of a witneſs or witneſſes, and which witneſſes the Surrogate is authoriſed and required to examine on oath, touching the truth of the ſuggeſtion.

Surrogates to take an oath, and the form thereof.

IX. *And be it further enacted by the authority aforeſaid*, That every Surrogate ſo to be appointed and commiſſioned, ſhall, before he enters upon the execution of his office, take and ſubſcribe the following oath, to wit, "I —— ——, Surrogate of the "county of ——, do ſolemnly and ſincerely promiſe and ſwear, that I will in all "things well and faithfullly execute the office of Surrogate of the ſaid county, according "to the beſt of my knowledge and ability."

In caſe of death, &c. his records how to be diſpoſed of.

*And further*, That upon the death or removal from office of any ſuch Surrogate, the ſaid ſeal, and all original wills, with all records, books, and papers, belonging to the ſaid office, ſhall be delivered over to the ſucceſſor in office, upon the oath of the preceding Surrogate, or of his executors or adminiſtrators, in caſe of his death.

Mode of proceeding where a caveat is entered, &c.

X. *And be it further enacted by the authority aforeſaid*, That in all caſes where a caveat ſhall be entered, in the office of any ſuch Surrogate, or any objection be made againſt the proving of any will or granting of adminiſtration of the goods, chattels, and credits of any perſon who is, or ſhall be an inhabitant of the county for which ſuch Surrogate ſhall be appointed and commiſſioned, ſuch Surrogate ſhall cauſe the parties and witneſſes to be cited to appear before him, and hear and determine the matter in controverſy according to law, and grant and iſſue ſuch Probates letters teſtamentary or adminiſtrations, as ſhall be agreeable to law and juſtice, ſaving to every one conceiving him, her, or themſelves aggrieved, his, her, and their right of appeal to the Judge of the Court of Probates, of this State, ſo as ſuch appeal be taken within fifteen days next after the order or ſentence appealed from be made.

Where perſons die out of the State, or are not inhabitants.

XI. *And be it further enacted by the authority aforeſaid*, That in all caſes of perſons dying out of this State, or of perſons dying within this State, not inhabitants of this State, their wills ſhall be proved before, and adminiſtrations of their perſonal eſtates, when neceſſary, be granted by the Judge of the Court of Probates of this State, in the manner heretofore uſed, and before or by no other perſon.

Bonds to be taken of perſons to whom adminiſtration is granted.

XII. *And be it further enacted by the authority aforeſaid*, That the Judge of the Court of Probates, of this State and the Surrogates of each of the reſpective counties of this State, and every of them, for the time being, ſhall and may, upon their reſpective granting and committing of adminiſtration of the goods of perſons dying inteſtate, take of the reſpective perſon or perſons to whom ſuch adminiſtration ſhall be committed, except where adminiſtration ſhall be granted to a huſband, of the goods, chattels, and credits of his wife, ſufficient bonds, with two or more able ſureties, to the People of the State of New-York, in ſuch penalty as the ſaid Judge or Surrogate ſhall think reaſonable, reſpect being had to the value of the eſtate; with condition as follows, to wit: "The condition of this obligation is ſuch, that if the above bound adminiſtrator of all and ſingular the goods, chattels and credits of —— ——, deceaſed, do make, or cauſe to be made, a true and perfect inventory of all and ſingular the goods, chattels and credits of the ſaid deceaſed, which have or ſhall come to the hands, poſſeſſion, or knowledge of the ſaid —— ——, or into the hands or poſſeſſion of any other perſon or perſons for the ſaid ——, and the ſame ſo made, do exhibit, or cauſe to be exhibited (where ſuch bond ſhall be taken by the Judge of the Court of Probates) into the regiſtry of the Court of Probates of this

Condition of the bond.

this State (but where ſuch bond ſhall be taken by a Surrogate) into the office of the Surrogate of the county of ———, at or before the expiration of ſix calendar months from the date of the above written obligation, and the ſame goods, chattels, and credits, and all other goods, chattels, and credits of the ſaid deceaſed, at the time of —— death, which at any time after ſhall come to the hands or poſſeſſion of the ſaid ———, or into the hands or poſſeſſion of any other perſon or perſons for the ſaid ———, do well and truly adminiſter according to law; and further, when thereunto lawfully required, do make, or cauſe to be made, a juſt and true account of adminiſtration; and all the reſt and reſidue of the ſaid goods, chattels, and credits which ſhall be found remaining upon the ſaid adminiſtrators account, the ſame being firſt examined and allowed of by the Judge of the Court of Probates of this State for the time being, ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid Judge, by his decree or ſentence ſhall, purſuant to the true intent and meaning of the act, entitled, "An act for ſettling inteſtates eſtates, proving wills, and granting adminiſtrations," limit and appoint; and if it ſhall hereafter appear that any laſt will and teſtament was made by the ſaid deceaſed, and the executor or executors therein named, or any other perſon or perſons, do exhibit the ſame, and requeſt to have it allowed and approved, then if the ſaid —— ———, being thereunto required, do render and deliver the letters of adminiſtration granted on the eſtate of the ſaid deceaſed, to the office from which the ſame were iſſued, then this obligation to be void and of none effect, or elſe to remain in full force and virtue." Which bonds ſhall be good, to all intents and purpoſes, and pleadable in any courts of juſtice.

Proceedings in caſe of foreiture of the bond.

And in caſe any ſuch bonds ſhall become forfeited, it ſhall and may be lawful for the Judge of the Court of Probates of this State to cauſe the ſame to be proſecuted in any court of record, at the requeſt of any party grieved by ſuch forfeiture: and the monies recovered upon ſuch bond ſhall be applied towards making good the damages ſuſtained by the not performing the ſaid condition in ſuch manner as the ſaid Judge ſhall, by his ſentence or decree, direct.

Judge of Probates authoriſed to call adminiſtrators to account, &c.

*And further*, That it ſhall and may be lawful to and for the Judge of the Court of Probates of this State, to call ſuch adminiſtrators to account for and touching the goods, chattels, and credits of any perſon dying inteſtate, and upon hearing and due conſideration thereof, to order and make juſt and equal diſtribution of what remaineth clear after debts, funeral charges, and juſt expences of every ſort firſt allowed and deducted, according to the laws in ſuch caſes, and the rules and limitations in this act mentioned; and the ſame diſtributions to decree and ſettle, and to compel ſuch adminiſtrators to obſerve and pay the ſame by due courſe of law; and alſo to hear and determine all cauſes touching any legacy or bequeſt in any laſt will and teſtament, payable or coming out of the perſonal eſtate of the teſtator, and to decree and compel payment thereof, ſaving to every one ſuppoſing him, her, or themſelves aggrieved, his, her, and their right of appeal.

Penalty for non-compliance.

XIII. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall neglect or refuſe to perform any ſuch ſentence or decree of the Judge of the Court of Probates of this State, it ſhall and may be lawful to and for the Judge of the ſaid court for the time being, to cauſe ſuch perſon or perſons, by proceſs directed to any Sheriff of any county of this State, to be taken and impriſoned until he, ſhe, or they ſhall perform the ſame ſentence or decree; and every Sheriff is hereby directed to cauſe all ſuch proceſs to him at any time directed, to be duly executed, and to confine the perſons againſt whom ſuch proceſs ſhall be iſſued, as in execution, until they ſhall be delivered by due courſe of law; and if any Sheriff ſhall neglect his duty therein, he ſhall be anſwerable to the pary grieved, in ſuch manner as he would be anſwerable upon proceſs of the like nature iſſuing out of the Supreme Court.

Sheriff's duty in ſuch caſes.

Diſtribution of the goods of inteſtates, when and how to be made.

XIV. *And be it further enacted by the authority aforeſaid*, That no diſtribution of the goods, chattels, and credits of any perſon dying inteſtate, ſhall be made until after one year be fully expired after granting adminiſtration thereof: and that each and every one to whom any diſtribution and ſhare ſhall be allotted, or any legacy or bequeſt paid or delivered, ſhall give bond, with ſufficient ſureties, to the adminiſtrators or executors, that if any debt or debts truly owing by the inteſtate or teſtator, as the caſe may be, ſhall be afterwards ſued for and recovered, or otherwiſe duly made to appear, and which there ſhall be no other aſſets to pay, that then, and in every ſuch caſe, he or ſhe ſhall reſpectively

reſpectively refund and pay back to the adminiſtrators or executors, his or her rateable part of ſuch debt or debts, and of the coſts of ſuit and charges by reaſon of ſuch debt or debts, out of the part and ſhare ſo allotted to him or her, or out of ſuch legacy, thereby to enable the ſaid adminiſtrators or executors to ſatisfy ſuch debt or debts.

Executors how to be cited, and compelled to account.

XV. *And be it further enacted by the authority aforeſaid,* That no adminiſtrator or executor ſhall be cited to the ſaid Court of Probates to render an account of the perſonal eſtate of his inteſtate or teſtator, otherwiſe than by an inventory or inventories thereof, unleſs it be at the inſtance or proſecution of ſome perſon or perſons in behalf of a minor, or having a demand out of ſuch perſonal eſtate, as a creditor, legatee, or next of kin; nor be compellable to account before the ſaid court otherwiſe than as is aforeſaid, any thing in this act, or any law, uſage, or cuſtom to the contrary notwithſtanding.

In all caſes where adminiſtration is granted with the will annexed, the will of the deceaſed ſhall be obſerved.

XVI. *And be it further enacted by the authority aforeſaid,* That in all caſes where any adminiſtration ſhall be granted, with a will or teſtament annexed, either by the Judge of the Court of Probates of this State, or by any Surrogate, of any county of this State, the will of the deceaſed, in ſuch teſtament expreſſed ſhall be obſerved and performed.

Former proceedings confirmed.

*And further,* That all former proceedings according to the proviſions of ſuch laws as were in force before the paſſing of this act, and all rights and claims agreeable to the proviſos of this act, ſhall be and hereby are confirmed.

Surrogates fees.

XVII. *And be it further enacted by the authority aforeſaid,* That inſtead of the fees allowed to the Surrogates in and by an act entitled "An act for regulating the fees of the ſeveral Officers and Miniſters of the Courts of Juſtice within this State;" the following, and no other fees, ſhall be allowed to ſuch Surrogates, that is to ſay, for adminiſtering an oath one ſhilling; for drawing the proof a will, or codicil, for each folio, conſiſting of one hundred and twenty-eight words, one ſhilling and ſixpence; for recording wills and codicils, and the proof thereof, and recording letters teſtamentary, and letters of adminiſtration, for each folio conſiſting of one hundred and twenty-eight words, one ſhilling; for a probate of a will and the letters teſtamentary thereon, for each folio conſiſting of one hundred and twenty-eight words, one ſhilling; for the ſeal of the ſame, four ſhillings; for a bond upon granting adminiſtration, four ſhillings; for letters of adminiſtration, for each folio conſiſting of one hundred and twenty-eight words, one ſhilling; for the ſeal of the ſame, four ſhillings; for entering and filing a *caveat* one ſhilling and ſixpence; for a citation, including the ſeal, ſix ſhillings; for taking and filing a renunciation three ſhillings; for filing an inventory, one ſhilling; for every ſearch for records in his office, one ſhilling; for copies of records, for each folio, conſiſting of one hundred and twenty-eight words, one ſhilling.

Where goods of the teſtator do not exceed 15l. no fees to be allowed.

XVIII. *And be it further enacted by the authority aforeſaid,* That wherever it ſhall appear to the Surrogate, by the oath of the perſon applying for letters teſtamentary, or letters of adminiſtration, that the goods, chattels and credits of the teſtator or inteſtate, do not exceed in value the ſum of fifteen pounds, no fees ſhall be exacted by or paid to the Surrogate, on granting letters teſtamentary, or letters of adminiſtration, of the goods, chattels and credits of ſuch teſtator or inteſtate, any thing herein before contained to the contrary thereof in any wiſe notwithſtanding.

Former laws, &c. repealed.

XIX. *And be it further enacted by the authority aforeſaid,* That the ſeveral acts of the Legiſlature of the late Colony of New-York, "for the ſuperviſing inteſtates eſtates, and regulating the probate of wills, and granting letters of adminiſtration," and for extending the ſame to ſeveral counties; and "for the better ſettling of inteſtates eſtates," ſhall be, and hereby are repealed.

Surrogate courts, &c. how to proceed.

XX. *And be it further enacted by the authority aforeſaid,* That the courts of the ſaid Surrogates, and the ſaid Court of Probates, in the matters ſubmitted to their cognizance reſpectively by this act, ſhall proceed according to the courſe of the courts having by the common law juriſdiction of the like matters: Provided that the ſame ſhall not be conſtrued to extend to the inflicting any eccleſiaſtical pains or penalties whatſoever. *Provided always,*

XXI. *And*

XXI. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Judge of the Court of Probates, and the Surrogates in the ſeveral counties within this State, to continue to exerciſe the like powers they were reſpectively veſted with immediately before the paſſing of this act, until the firſt day of May next.

Judge of Probates, &c. to exerciſe their former powers till the firſt of May.

## CHAP. XXXIX.

AN ACT *for the better ſecuring the Liberty of the Citizens of this State, and for prevention of Impriſonments.* Paſſed the 21ſt of February, 1787.

WHEREAS great delays have been uſed by the Sheriffs, Gaolers, and other Officers, to whoſe cuſtody perſons have been committed for criminal, or ſuppoſed criminal matters, in making return of writs of *habeas corpus* to them directed, and by other ſhifts to avoid their yielding obedience to ſuch writs, contrary to their duty, and the known laws of the land, whereby many perſons have been and hereafter may be long detained in priſon, in ſuch caſes where by law they are bailable, to their great charges and vexation: For the prevention whereof, and the more ſpeedy relief of all perſons impriſoned for ſuch criminal, or ſuppoſed criminal matters.

Preamble, reciting that great delays have been made in returning writs, &c.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That whenſoever any perſon or perſons ſhall bring any *habeas corpus* directed to any Sheriff, Gaoler, Miniſter, or other perſon or perſons whatſoever, for any perſon in his or their cuſtody, and the ſaid writ ſhall be ſerved upon the ſaid Officer, or other perſon or perſons, or left at the gaol or priſon, with any of the Under Officers, Under Keepers, or Deputy of the ſaid Officers or Keepers, that the ſaid Officer or Officers, his or their Under Officers, Under Keepers, or Deputies, or other perſon or perſons, ſhall within three days after the ſervice thereof as aforeſaid (unleſs the commitment aforeſaid were for treaſon or felony, plainly and ſpecially expreſſed in the warrant of commitment) upon payment or tender of charges of bringing the ſaid priſoner, to be aſcertained by the Judge or Court that awarded the ſame, and indorſed upon the ſaid writ, not exceeding twelve pence per mile, and upon ſecurity given by his own bond, to pay the charges of carrying back the priſoner, if he ſhall be remanded by the court or Judge, to which he ſhall be brought, according to the true intent of this act, and that he will not make any eſcape by the way, make return of ſuch writ, and bring or cauſe to brought the body of the party ſo committed or reſtrained, unto or before the Chancellor of this State for the time being, or the Juſtices of the Supreme Court, or unto or before ſuch of them before whom the ſaid writ is made returnable, according to the command thereof, and ſhall then likewiſe certify the true cauſes of his detainer or impriſonment, unleſs the commitment of the ſaid party be in a place beyond the diſtance of twenty miles from the place or places where ſuch court, or perſon is or ſhall be reſiding; and if beyond the diſtance of twenty miles and not above one hundred miles, then within the ſpace of ten days, and if beyond the diſtance of one hundred miles, then within the ſpace of twenty days after ſuch delivery as aforeſaid, and not longer. And to the intent that no Sheriff, Gaoler, or other Officer may pretend ignorance of the import of any ſuch writ;

Clauſe for remedy of ſuch wrongful detainers.

II. *Be it further enacted by the authority aforeſaid*, That all ſuch writs ſhall be marked in this manner *by the ſtatute*, and be ſigned by the perſon that awards the ſame; and if any perſon or perſons ſhall be or ſtand committed or detained as aforeſaid, for any crime, unleſs for treaſon or felony plainly expreſſed in the warrant of commitment, in the vacation time, and out of term, it ſhall and may be lawful to and for the perſon or perſons ſo committed or detained, (other than perſons convict, or in execution by legal proceſs) or any one on his or their behalf, to apply or complain to the Chancellor, or any one the Juſtices of the Supreme Court, and the ſaid Chancellor or Juſtices, or any of them, upon view of the copy or copies of

Writs of Habeas Corpus how to be marked; and priſoners how relieved.

the warrant or warrants of commitment and detainer, or otherwiſe, upon oath made that ſuch copy or copies were denied to be given by ſuch perſon or perſons in whoſe cuſtody the priſoner or priſoners is or are detained, are hereby authoriſed and required, upon requeſt made in writing by ſuch perſon or perſons, or any on his, her, or their behalf, atteſted and ſubſcribed by two witneſs, who were preſent at the delivery of the ſame, to award and grant an *habeas corpus*, under the ſeal of ſuch court whereof he ſhall then be one of the Judges, to be directed to the Officer or Officers, or perſon or perſons in whoſe cuſtody the party ſo committed or detained, ſhall be returnable immediately before the ſaid Chancellor or Juſtice of the ſaid Supreme Court, and upon ſervice thereof as aforeſaid, the officer or officers, his or their under officer or under officers, under keeper or under keepers, or their deputy, or perſon or perſons, in whoſe cuſtody the party is ſo committed or detained, ſhall, within the times reſpectively before limited; bring ſuch priſoner or priſoners before the ſaid Chancellor, or Juſtices of the ſaid Supreme Court, or one of them, before whom the ſaid writ is made returnable; and in caſe of his abſence, before any other of them, with the return of ſuch writ, and the true cauſes of the commitment and detainer, and thereupon, within two days after the party ſhall be brought before them, the ſaid Chancellor or ſuch Juſtice before whom the priſoner ſhall be brought as aforeſaid, ſhall diſcharge the ſaid priſoner from his impriſonment, taking his or their recognizance, with one or more ſurety or ſureties, in any ſum according to their diſcretions, having regard to the quality of the priſoner and nature of the offence, for his or their appearance in the Supreme Court the term following, or at the next General Seſſions or Gaol Delivery of and for ſuch county, city or place, where the commitment was, or where the offence was committed, or in ſuch other court where the ſaid offence is properly cognizable, as the caſe ſhall require; and ſhall then certify the ſaid writ, with the return thereof, and the ſaid recognizance or recognizances, into the ſaid court where ſuch appearance is to be made, unleſs it ſhall appear unto the ſaid Chancellor, or Juſtice or Juſtices, that the party ſo committed, is detained upon a legal proceſs, order, or warrant, out of ſome court that hath juriſdiction of criminal matters, or by ſome warrant ſigned and ſealed with the hand and ſeal of any of the ſaid Juſtices, or ſome Juſtice or Juſtices of the Peace, for ſuch matters or offences, for the which, by the law the priſoner is not bailable. But if any perſon ſhall have wilfully neglected, by the ſpace of two whole terms after his impriſonment, to pray a *habeas corpus* for his enlargement, ſuch perſon ſo wilfully neglecting, ſhall not have any *habeas corpus* to be granted in vacation time in purſuance of this act.

Officers duty on the ſervice of a writ of Habeas Corpus.

III. *And be it further enacted by the authority aforeſaid*, That if any officer or officers, his or their under officer or under officers, underkeeper or underkeepers, or deputy, or other perſon or perſons, ſhall neglect or refuſe to make the returns aforeſaid, or to bring the body or bodies of the priſoner or priſoners, according to the command of the ſaid writ, within the reſpective times aforeſaid, or upon demand made by the priſoner, or any perſon in his behalf, ſhall refuſe to deliver, or within the ſpace of ſix hours after demand, ſhall not deliver to the perſon ſo demanding, a true copy of the warrant or warrants of commitment and detainer of ſuch priſoner, which he and they are hereby required to delivery accordingly, all and every the head gaolers, and keepers of ſuch priſons, and ſuch other perſon or perſons in whoſe cuſtody the priſoner ſhall be detained, ſhall for the firſt offence, forfeit to the priſoner, or party grieved, the ſum of one hundred pounds, and for the ſecond offence the ſum of two hundred pounds, and ſhall, if an officer be, and is hereby made incapable to hold or execute his ſaid office; the ſaid penalties to be recovered by the priſoner, or party grieved, his or her executors or adminiſtrators, againſt ſuch offender, his executors or adminiſtrators, by action of debt, ſuit, bill, plaint, or information in any Court of Record wherein no privelege, injunction, or ſtay of proſecution by *non vult ulterius proſequi*, or otherwiſe, ſhall be admitted or allowed, or any more than one imparlance; and any recovery or judgement at the ſuit of any party grieved, ſhall be a ſufficient conviction for the firſt offence; and any after recovery or judgement at a ſuit of a party grieved, for any offence, after the firſt judgment,

Penalty on officers neglecting or refuſing to do their duty in ſuch caſes.

Penalty how to be recovered.

judgment, ſhall be a ſufficient conviction to bring the officers, or perſon or perſons within the ſaid penalty for the ſecond offence. And for prevention of unjuſt vexation by reiterated commitments for the ſame offence.

Preventing vexations by frequent commitments for the ſame offence.

IV. *Be it further enacted by the authority aforeſaid*, That no perſon or perſons who ſhall be delivered or ſet at large upon any *Habeas corpus*, ſhall at any time thereafter be again impriſoned or committed for the ſame offence, by any perſon or perſons whatſoever, other than by the legal order and proceſs of ſuch court wherein he or they ſhall be bound by recognizance to appear, or other court having juriſdiction of the cauſe; and if any other perſon or perſons ſhall knowingly, contrary to this act, recommit or impriſon, or knowingly cauſe or procure to be recommitted or impriſoned for the ſame offence, or pretended offence, any perſon or perſons delivered or ſet at large as aforeſaid, or be knowingly aiding or aſſiſting therein, then he or they ſhall forfeit to the priſoner, or party grieved, the ſum of five hundred pounds, any colourable pretence or variation in the warrant or warrants of commitment notwithſtanding, to be recovered as aforeſaid.

Perſons committed for felony, and not indicted within a certain time, to be diſcharged.

V. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall be committed for any treaſon or felony, plainly and ſpecially expreſſed in the warrant of commitment, upon his prayer or petition in open court, the firſt week of the term, or firſt day of the ſeſſions of Oyer and Terminer or Gaol Delivery, to be brought to his trial, ſhall not be indicted ſome time in the next Term, Seſſions of Oyer and Terminer, or Gaol Delivery, after ſuch commitment, it ſhall and may be lawful to and for the Juſtices of the Supreme Court, and Juſtices of Oyer and Terminer, or Gaol Delivery, and they are hereby required, upon motion to them made in open court, the laſt day of the Term Seſſions, or Gaol Delivery, either by the priſoner or any one in his behalf, to ſet at liberty the priſoner upon bail, unleſs it appear to the Juſtices upon oath made, that the witneſſes againſt the priſoner could not be produced the ſame Term, Seſſions, or Gaol Delivery. And if any perſon or perſons, committed as aforeſaid, upon his prayer or petition in open court, the firſt week of the Term, or firſt day of the ſeſſions of Oyer and Terminer or Gaol Delivery, to be brought to his trial, ſhall not be indicted and tried the ſecond term ſeſſions of Oyer and Terminer, or Gaol Delivery, after his commitment, or upon his trial ſhall be acquitted, he ſhall be diſcharged from his impriſonment.

Proviſo.

*Provided always*, That nothing in this act ſhall extend to diſcharge out of priſon any perſon charged in debt or other action, or with proceſs in any civil cauſe, but that after he ſhall be diſcharged of his impriſonment for ſuch his criminal offence, he ſhall be kept in cuſtody according to the law for ſuch other ſuit.

Criminals not to be removed but by Habeas Corpus, &c.

VI. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, citizens of this State, ſhall be committed to any priſon, or in cuſtody of any officer or officers whatſoever, for any criminal or ſuppoſed criminal matter, that the ſaid perſon ſhall not be removed from the ſaid priſon and cuſtody into the cuſtody of any other officer or officers, unleſs it be by *habeas corpus*, or ſome other legal writ or proceſs, or where the priſoner is delivered to the Conſtable or other inferior officer, to carry ſuch priſoner to ſome common gaol, or where any perſon is ſent by order of any court or Judge, or Juſtice of Peace, to any common work houſe, or houſe of correction, or where the priſoner is removed from one priſon or place to another within the ſame county; in order to his or her trial or diſcharge in due courſe of law; or in caſe of ſudden fire or infection, or other neceſſity; and if any perſon or perſons ſhall, after ſuch commitment aforeſaid, make out and ſign, or counterſign any warrant or warrants, for ſuch removal aforeſaid, contrary to this act, as well he who makes or ſigns, or counterſigns ſuch warrrnt or warrants, as the officer or officers who obey or execute the ſame, ſhall for every offence forfeit to the priſoner or party grieved, two hundred pounds, to be recovered in manner aforeſaid by the party grieved.

Priſoners how to apply for and procure a Habeas Corpus.

VII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for any priſoner and priſoners as aforeſaid, to move for and obtain his or their *habeas corpus*, as well out of the Court of Chancery, as out of the Supreme Court; and if the Chancellor or any Juſtice of the Supreme Court for the time being, in the vacation time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that ſuch copy or copies were denied as aforeſaid, ſhall deny any writ of *habeas corpus* by this act required

to

to be granted, being moved for as aforeſaid, they ſhall ſeverally forfeit to the priſoner or party grieved, the ſum of five hundred pounds to be recovered in manner aforeſaid.

And for preventing illegal impriſonments of the citizens of this State, in priſons out of this State:

Preventing illegal impriſonment of citizens out of this State.

VIII. *Be it further enacted by the authority aforeſaid*, That no citizen of this State, who now is or hereafter ſhall be an inhabitant or reſident within this State, ſhall or may be ſent priſoner to any place whatſover, out of this State, for any crime or offence committed within this State, and that every ſuch impriſonment is hereby enacted and adjudged to be illegal, and that if any of the ſaid citizens now is, or hereafter ſhall be ſo impriſoned, every ſuch perſon and perſons ſo impriſoned, ſhall and may for every ſuch impriſonment, maintain by virtue of this act, an action, or actions of falſe impriſonment in any Court of Record, againſt the perſon or perſons by whom he or ſhe ſhall be ſo committed, detained, impriſoned, ſent priſoner or tranſported, contrary to the true intent and meaning of this act, and againſt all or any perſon or perſons who ſhall frame, contrive, write, ſeal, ſign or counterſign, any warrant or writing for ſuch commitment, detainer, impriſonment, or tranſportation, or ſhall be adviſing, aiding or aſſiſting in the ſame, or any of them, and the plaintiff in every ſuch action ſhall have judgement to recover treble coſts beſides damages; which damages ſo to be given, ſhall not be leſs than five hundred pounds, in which action no delay, ſtay, or ſtop of proceeding; by rule, order, or command, nor no injunction or privilege whatſoever, nor any more than one imparlance ſhall be allowed, excepting ſuch rule of the court wherein the action ſhall depend, made in open court, as ſhall be thought in juſtice neceſſary for ſpecial cauſe to be expreſſed in the ſaid rule. And the perſon or perſons, who ſhall knowingly frame, contrive, write, ſeal, ſign, or counterſign, any warrant for ſuch commitment, detainer or tranſportation, or ſhall ſo commit, detain, impriſon or tranſport, any perſon or perſons contrary to this act, or be any wiſe adviſing, aiding or aſſiſting therein, being lawfully convicted thereof, ſhall be diſabled from thenceforth to bear any office of truſt or profit within this State, and ſhall forfeit to the people of this State, all his goods and chattels, and the iſſues and profits of his lands and tenements during his natural life.

Proviſo.

*Provided always*, That nothing in this act ſhall extend to give benefit to any perſon who ſhall, by contract in writing, agree with any merchant or owner of any plantation, or other perſon whatſoever, to be tranſported to any place out of this State, or to any part beyond the ſeas, and receive earneſt upon ſuch agreement, although that afterwards ſuch perſon ſhall renounce ſuch contract.

Further proviſo.

*Provided alſo*, That if any perſon or perſons lawfully convicted of any felony, ſhall, in open court, pray to be tranſported beyond the ſeas, and the court ſhall think fit to leave him or them in priſon for that purpoſe, ſuch perſon or perſons may be tranſported into any parts beyond the ſeas, this act, or any thing therein contained to the contrary notwithſtanding.

Further proviſo.

*Provided alſo*, That if any perſon or perſons at any time reſident in this State, ſhall have committed, or be charged with having committed any treaſon, felony, or other high miſdemeanor, in any other of the United States of America, where he or ſhe ought to be tried for ſuch offence, ſuch perſon or perſons may be ſent to ſuch place, there to receive ſuch trial, in ſuch manner as the ſame might have been uſed before the making of this act, any thing herein contained to the contrary notwithſtanding.

Offences againſt this act to be proſecuted within two years.

IX. *Provided alſo, And be it further enacted by the authority aforeſaid*, That no perſon or perſons ſhall be ſued, impleaded, moleſted, or troubled, for any offence againſt this act, unleſs the party offending be ſued or impleaded for the ſame, within two years at moſt after ſuch time wherein the offence ſhall be committed, in caſe the party grieved ſhall not then be in priſon; and if he or ſhe ſhall be in priſon, then within the ſpace of two years after the deceaſe of the perſon impriſoned, or his or her delivery out of priſon, which ſhall firſt happen.

Perſons proſecuted upon this act, may plead the general iſſue, &c.

X. *And be it further enacted by the authority aforeſaid*, That if any information, ſuit, or action, ſhall be brought or exhibited againſt any perſon or perſons, for any offence committed, or to be committed againſt the form of this law, it ſhall be lawful for ſuch

defendants

defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the Jury that shall try the same, which matter being pleaded, had been good and sufficient matter in law, to have discharged the said defendant or defendants against the said information, suit, or action, and the said matter shall be then as available to him or them, to all intents and purposes, as if he or they had sufficiently pleaded, set forth, or alledged the same matter, in bar or discharge of such information, suit, or action.

Recital.

And to the intent that no person may avoid his trial at the sessions of Oyer and Terminer, or Gaol Delivery, by procuring his removal before the sitting of the same court, at such time as he cannot be brought back to receive his trial there;

No person to be removed by Habeas Corpus, after sessions of Oyer and Terminer is proclaimed.

XI. *Be it further enacted by the authority aforesaid*, That after the sessions of Oyer and Terminer, or Gaol Delivery, proclaimed for that county where the prisoner is detained, no person shall be removed from the common gaol upon any *habeas corpus* granted in pursuance of this act; but upon any such *habeas corpus*, shall be brought before the Justice or Justices of the Circuit Court, in open court, who is or are thereupon to do what to justice shall appertain.

Proviso

*Provided*, That after the sessions of Oyer and Terminer, or Gaol Delivery are ended, any person or persons detained, may have his or their *habeas corpus*, according to the direction and intention of this act.

Recital.

And because oftentimes persons charged with felony, or as accessaries thereunto, are committed upon suspicion only, whereupon they are bailable, or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the Justices of the peace who committed the persons, and have the examinations before them, or to other Justices of the Peace in the county. *Therefore*,

Accessaries to felonies not bailable.

XII. *Be it further enacted by the authority aforesaid*, That where any person shall appear to be committed by any Judge or Justice of the Peace, and charged as accessary before the fact, to any felony, or upon suspicion thereof, or with suspicion of any felony, which felony shall be plainly and specially charged in the warrant of commitment, that such persons shall not be removed or bailed by virtue of this act, or in any other manner than they might have been before the making of this act.

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## CHAP. XL.

AN ACT *for the relief of Abraham Lott.* Passed the 23d of February, 1787.

Treasurer of the State to discharge Abraham Lot from a judgment obtained against him by the People of this State, on his performing certain conditions.

BE it enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the Authority of the same*, That it shall and may be lawful for the Treasurer of this State, to discharge Abraham Lott, late Treasurer of the late colony now State of New-York, from the judgment obtained against him by the People of this State, upon his paying and discharging the costs and poundage of the suit against him, and on his paying to the Treasurer two thousand pounds in certificates issued or to be issued by the said Treasurer, and on his giving to the said Treasurer sufficient security for the payment of the balance of the sum for which the said judgment was obtained, within two years from the passing of this act, in certificates issued or to be issued by the Treasurer of this State.

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## CHAP. XLI.

AN ACT *for the Relief of Frederick Wiessenfels.* Passed the 23d of February, 1787.

Treasurer directed in the case of F. Weissenfels.

BE it Enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the Treasurer of this State to receive a bond from Frederick Wiessenfels, to the People of this State, for such sum as shall be found due from him

to them, to be paid in certificates iſſued, or to be iſſued by the ſaid Treaſurer, and thereupon to diſcharge him from the ſuit commenced againſt him by the People of this State.

## CHAP. XLII.

AN ACT *to regulate the election of Charter Officers in the City of New-York,* Paſſed the 23d of February 1787.

Mayor, &c. of New-York to fix a day and place for holding elections for city officers.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Mayor Aldermen, and Commonalty of the City of New-York, in Common Council convened, ſhall and may on ſuch day in the month of September, in every year hereafter, as to them ſhall ſeem meet, at leaſt eight days before the day of election of officers, to be choſen in and for the ſaid city, by virtue of the charter thereof, fix upon a proper place in each reſpective ward where ſuch election ſhall be held, and nominate and appoint a fit and diſcreet perſon for each reſpective ward in the ſaid city, being a reſident in the ward for which he ſhall be ſo appointed, and a freeholder there, or a freeman of the ſaid city, to preſide at, and be the Inſpector or returning officer, as well of the election of the ſaid officers to be choſen in the month of September, for the year next enſuing, to ſee that the ſame reſpective elections be fairly conducted and had, as for the election of ſuch officers reſpectively as ſhall be to be choſen, in the ſame year, to fill any vacancy or vacancies which from time to time ſhall or may happen in any of the ſaid offices, by death, removal out of the ſaid city, refuſal to ſerve, or otherwiſe.

Inſpectors to be appointed.

If any Inſpector die or remove, another to be appointed.

*And further,* That in caſe any of the ſaid Inſpectors ſhall die, remove out of the ſaid city, refuſe to ſerve, or be rendered incapable of attending any of the ſaid elections, before or on the day on which the ſame is to be held; that then, and in ſuch caſe, it ſhall and may be lawful to and for the ſaid Mayor, Aldermen, and Commonalty of the city of New-York, in Common Council convened, *or the major part of them,* to appoint another fit and diſcreet perſon, being a reſident in the ward in which ſuch election ſhall be to be held, and a freeholder there, or a freeman of the ſaid city, to be an Inſpector of the ſaid election, in the room and ſtead of the ſaid perſon ſo dying, removing, refuſing to ſerve, or being rendered incapable of attending the ſaid election, and ſo as often as ſuch caſe ſhall happen.

Inſpector to appoint a Clerk, and tender to him an oath.

*And further,* That each of the ſaid perſons ſo to be from time to time nominated and appointed to be Inſpectors of the ſaid reſpective elections, ſhall appoint a perſon properly qualified, to act as Clerk at the election to be held in their reſpective wards, and ſhall tender and adminiſter to ſuch Clerk (who is hereby directed and required to take the ſame) the following oath, to wit, "I do ſolemnly and ſincerely ſwear and declare, in the preſence of Almighty God, that I will truly and impartially execute the truſt repoſed in me, as a Clerk of this election, for the ——— ward of the city of New-York."

Clerk's duty.

And ſhall thereupon, in the preſence of the ſaid Inſpector, in a poll-book to be provided for the purpoſe, ſet down the name of each voter, and for whom he ſhall vote, and whether he votes as a freeholder or freeman; which ſaid poll-book ſhall, immediately after the cloſing of the poll of every of the ſaid elections, be ſubſcribed with the proper name and hand writing of ſuch Inſpector, and be by him delivered to the Clerk of the ſaid city, or his deputy, to be by him delivered to the ſaid Mayor, Aldermen, and Commonalty of the city of New-York, in Common Council convened.

Clerk's allowance.

*And further,* That the reſpective Clerks of the ſaid elections, ſhall be allowed the ſum of ſixteen ſhillings for each election, to be paid by the ſaid Mayor, Aldermen, and Commonalty of the city of New-York,

Proceeding in caſe of the death, &c. of Alderman, &c.

II. *And be it further enacted by the authority aforeſaid,* That in caſe it ſhall ſo happen that any of the Aldermen, Aſſiſtants, Aſſeſſors, Collectors, or Conſtables, ſo choſen, ſhall die, or remove out of the ſaid city, before the day by the ſaid charter appointed for the annual election of ſuch officers, or, being duly elected, ſhall refuſe to

ſerve

ſerve in the office to which he or they ſhall reſpectively be choſen; then, and in ſuch caſe, it ſhall and may be lawful to and for the ſaid Mayor, Aldermen, and Commonalty of the City of New-York, in Common Council convened, to order an election or elections to be held, to fill ſuch vacancy or vacancies, and appoint a place in the reſpective wards, and the time (not leſs than five days previous to ſuch intended election) for holding the ſaid election; and to give notice thereof to the Inſpector of the ward in which ſuch vacancy ſhall happen, and ſo as often as any ſuch vacancy ſhall happen; and that the ſaid Inſpector ſhall forthwith cauſe the ſame to be publiſhed, by advertiſements put up in at leaſt three of the moſt public places of the ward.

Penalty on Inſpectors refuſing to ſerve

III. *And be it further enacted by the authority aforeſaid*, That if any perſon who ſhall be nominated and appointed as an Inſpector as aforeſaid, ſhall neglect or refuſe to execute the ſaid office, every ſuch perſon ſhall forfeit and pay, for every ſuch neglect or refuſal, to the uſe of the Corporation of the ſaid city, the ſum of twenty pounds, to be levied by warrant under the ſeal of the ſaid city, ſigned by the Mayor or Recorder for the time being.

Proceeding in caſes of Inſpectors neglect &c.

IV. *And be it further enacted by the authority aforeſaid*, That in caſe the ſaid Mayor, Aldermen, and Commonalty of the city of New-York, in Common Council convened, ſhall neglect to appoint ſuch perſons as Inſpectors of the election for any of the officers aforeſaid, or if the perſons ſo to be nominated and appointed, or any of them, ſhall not attend or do the duty of their ſaid office, at any election in any ward of the ſaid city, that then the ſaid election of the ſaid officers, or ſuch of them as ſhall then be to be choſen, in ſuch reſpective ward, ſhall be had and made, according to the directions in the charters granted to the ſaid city, any thing in this act contained to the contrary hereof in any wiſe notwithſtanding.

Who allowed to vote at elections.

V. *And be it further enacted by the authority aforeſaid*, That no perſon ſhall vote at any of the ſaid elections, as a freeholder, but ſuch as ſhall be poſſeſſed of a freehold eſtate in his own right, or in the right of his wife, in lands or tenements to the value of *twenty pounds*, over and above all debts charged thereon, within ſuch ward of the ſaid city where he ſhall vote, and ſhall have poſſeſſed the ſame one month, at the leaſt, before the day of ſuch election, unleſs he ſhall hold his eſtate by deſcent or deviſe.

Who diſqualified.

*And further*, That no perſon ſhall vote at any of the ſaid elections, as a freeman of the ſaid city, unleſs he ſhall have been admitted to the freedom of the ſaid city three months, at the leaſt, before the day of ſuch election, and ſhall have actually reſided in the ward in which he ſhall ſo vote, for one month before the day of ſuch election.

Electors to take an oath.

*And further*, That every Elector, before he ſhall be admitted to poll at the ſaid election, ſhall, if required by the Inſpector of ſuch election, firſt take the following oath, which oath each of ſuch Inſpectors is hereby authoriſed to tender and adminiſter, that is to ſay, if the ſaid Elector votes as a freeholder, the oath following, to wit: "I ———, do ſolemnly and ſincerely ſwear and declare in the preſence of Almighty God, that I am, and (if he ſhall not hold his eſtate by deſcent or deviſe) have been for one month next and immediately preceding this election, a freeholder, and poſſeſſed of a freehold in my own right (or in my wife's right, as the caſe may be) of the value of twenty pounds, in the ward in which I now offer to vote; that I do not hold the ſame in truſt for any body politic or corporate, or for any pious or religious uſe whatſoever; that I have not been before polled at this election, and that I have not procured this freehold under any obligation or promiſe to reconvey the ſame to the ſeller after this election." And if the ſaid Elector ſhall vote as a freeman, the following oath, to wit, "I ———, do ſolemnly and ſincerely ſwear and declare, in the preſence of Almighty God, that I am, and have been for three months next and immediately preceding this election, a freeman of the city of New-York, and have actually reſided in the ward in which I now offer to vote, one month now laſt paſt, and that I have not been before polled at this election.

Penalty on Electors refuſing to take the oath.

VI. *And be it further enacted by the authority aforeſaid*, That if any freeholder or freeman ſhall refuſe or neglect to take the oath by this act appointed to be taken by him or them reſpectively; or if any Elector ſhall refuſe or neglect to declare whether he votes in the right of a freeholder or freeman, (being thereunto reſpectively required by the Inſpector) then, and in ſuch caſe, the poll or vote of ſuch perſon or perſons ſo neglecting or refuſing

ſing, ſhall be, and the ſame is hereby declared to be null and void, and as ſuch ſhall be rejected and diſallowed, any charter, law, uſage, or cuſtom to the contrary hereof in any wiſe notwithſtanding.

Mortgagors and mortgagees when to be conſidered as freeholders.

VII. *And be it further enacted by the authority aforeſaid*, That every mortgager, while he continues in the occupation of the premiſes mortgaged, and every mortgagee of a real eſtate, to him and his heirs, after he obtains poſſeſſion of the mortgaged premiſes, and every perſon poſſeſſed of a freehold in right of his wife, ſhall be deemed and eſteemed a freeholder within the meaning of this act: But that no perſon or perſons holding lands, tenements, or hereditaments, in truſt for any body politic or corporate, or for any religious or pious uſe or purpoſe, in virtue of ſuch truſt, nor any perſon under the age of twenty one years, ſhall be qualified to vote for any of the officers aforeſaid, which ſhall hereafter be to be choſen, in and for the ſaid city.

Perſons poſſeſſed of a freehold on the eaſt ſide of Broadway, to vote in the weſt ward.

VIII. *And be it further enacted by the authority aforeſaid*, That every perſon ſeiſed of a freehold eſtate, of and in any houſes or lots of ground, of value ſufficient by this act to entitle him to a vote, lying and being on the eaſt ſide of, and fronting to the Broad-Way in the ſaid city of New-York, ſhall vote for the officers aforeſaid in the weſt ward only, and not in the north ward of the ſaid city, although their lots of ground fronting the ſaid Broad-Way, ſhall extend in the ſame north ward, any charter, law, uſage, or cuſtom to the contrary hereof in any wiſe notwithſtanding.

## CHAP. XLIII.

### AN ACT *concerning Fines, and Recoveries of Lands and Tenements.* Paſſed the 26th of February, 1787.

Fines of lands and tenements to be levied in the Supreme Court, and how.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That all fines of lands and tenements ſhall be levied in the Supreme Court, before the Juſtices of the ſame court, and not elſewhere; and that when the original writ is returned and delivered to the court, a Pleader, in the preſence of the parties before the Juſtices, ſhall ſay to the Court, "*We pray leave to agree*," and one of the Juſtices ſhall ſay, "*Leave is granted by the Court*;" and when the parties have made their agreement, proclamation ſhall be made, that all perſons keep ſilence while the agreement between the parties is read; and the Pleader ſhall then read the concord between the parties in open court, and then deliver the ſame into court, where the Cognizors ſhall acknowledge and ſign the ſame, in the preſence of the Juſtices. And it is to be known, that the order of the law will not ſuffer a final accord to be levied, without an original writ, and that muſt be in the Supreme Court, before two Juſtices of the ſame court at the leaſt, and in the preſence of the parties named in the writ, who muſt be of full age, of ſound memory, and out of priſon; and if a woman *covert* be one of the parties, ſhe muſt be firſt examined by one of the ſaid Juſtices; and if ſhe doth not aſſent thereunto, the fine ſhall not be levied. And the cauſe wherefore ſuch ſolemnity ought to be obſerved in a fine, is becauſe a fine is ſo high a bar, of ſo great force, and of ſo ſtrong a nature in itſelf, that it concludeth not only ſuch as be parties and privies thereto, and their heirs, but all other people of the world, being of full age, not *covert of baron* within this State, out of priſon, and of ſound memory, the day of the fine levied, if they make not their entry, and bring their action within five years after the fine levied.

Accord to be levied only by an original writ, &c.

Fees for writs for levying fines, &c.

II. *And be it further enacted by the authority aforeſaid*, That nothing ſhall be taken or paid for any writ or writs of covenant for levying of any fines, but the accuſtomed fees for writing, and for the ſeal of the ſame writ or writs; and that all duties and impoſitions heretofore demanded and taken upon levying of fines, for the alienation or licence to agree, under the names of fines, poſt fines, and the king's ſilver, ſhall be, and hereby are, forever aboliſhed.

Where parties their title to lands, &c.

III. *And be it further enacted by the authority aforeſaid*, That as well the parties demandant or plaintiff, as the tenants or defendants, that will yield or acknowledge their right of lands or tenements, unto others in pleas of *warrantia chartæ*, covenant

or

of other pleas whereupon fines are to be or may be levied, shall before such fines do pass, appear personally in the said Supreme Court, so that their age, idiocy, or any other default (if any be) may be adjudged and discerned by the Justices; but if any person or persons willing to levy such fine or fines shall be out of this State, or cannot by reason of age, sickness, or other reasonable impediment, come in person before the Justices in the said Supreme Court, to acknowledge the same fine or fines, then and in every such case, a writ or writs of *dedimus potestatem* may be granted out of the Court of Chancery to the Justices of the Supreme Court, giving power to them, or any one or more of them, or to any other proper and discreet men, of good fame and credit, residing at or near the place where such party being out of this State, or so diseased or unable to travel, shall be, giving power to them, or any two or more of them to go to the party being out of this State, or so diseased or unable to travel, and to receive his, her, or their acknowledgement or cognizance, upon that plea, or form of plea, that he, she or they have or hath, whereupon the same fine or fines ought to be levied, and the said Justice or Justices, or other persons so empowered, shall certify the Justices of the Supreme Court thereof by the record, so that all things incident to the same fine or fines, being examined by him or them, the same fine or fines may be lawfully levied. And it shall and may be lawful for the Chief Justice of the Supreme Court for the time being, to receive such acknowledgements or cognizances as aforesaid, by virtue of his office, and without any such commission as aforesaid. And further, that no person to whom any such fine shall be acknowledged, shall be allowed to appear in the said Supreme Court by Attorney, unless such Attorney, shall be appointed by the person for whom he shall appear, before one of the Justices of the Supreme Court, or Commissioners authorised by a writ of *dedimus potestatem* out of the Chancery, his or her Attorney to gain or lose in the plea, whereupon such fine is to be levied, and his warrant of Attorney be signed by such Justice or Commissioners.

*4 Edw. 1. st. 4. 27 Edw. 1. c. 1. 32 Hen. 8 c. 36. 23 Eliz. c. 3. 5 Hen. 4. c. 14. 4 Hen. 7. c. 24. 4 Anne. c. 16.*

IV. *And be it further enacted by the authority aforesaid*, That every person who shall at any time hereafter take the acknowledgment or cognizance of any fine, or any warrant of Attorney of any demandant or plaintiff, in any plea whereupon any fine or fines shall be levied, or of any demandant or plaintiff, or tenant or vouchee for suffering any common recovery, or shall certify them, or any of them, shall, with the certificate of the concord, or warrant of attorney, certify also the day and year when the same was acknowledged; and that no person who shall take such acknowledgment or cognizance of any fine, or any warrant of attorney for any of the purposes aforesaid, shall be bound, or by any means enforced to certify any such acknowledgment, or cognizance, or warrant, except it be within one year next after the same shall be taken.

Persons taking the acknowledgment of fines, to record the time, &c.

*And further*, That no *attornment* in or upon any fine, be entered upon record, unless the party mentioned to *attorn* therein, shall have first appeared in court in person, or by attorney warranted by the hand of one of the Justices of the Supreme Court, or Commissioners as aforesaid, upon a writ of *quid juris clamat*, *quem redditum reddat*, or *per quæ servitia*, as the case may require; and every entry of *attornment* hereafter to be made, where there shall be no appearance as aforesaid, shall be utterly void and of none effect, without any writ of error, or other means to be used for the avoiding thereof.

Where attornments upon fines are to be entered upon record

V. *And be it further enacted by the authority aforesaid*, That after the engrossing of every fine hereafter to be levied in the said Supreme Court, before the Justices of the same court, of any lands, tenements, or other hereditaments, the same fines shall be openly and solemnly read and proclaimed in the same court four times, that is to say, once in the same term wherein it is engrossed, and once in every of the three terms holden next after the same engrossing, and in the same time that it is so read and proclaimed, all pleas shall cease; and the said proclamations being so had and made, the fine shall be a final end, and conclude as well privies as strangers to the same, except *women covert* not parties to the same fine, and every person then being within the age of twenty one years, in prison, or out of this State, or not of sound mind at the time of the said fine levied, not parties to such fine, saving to every person and persons, and to their heirs, other than the parties to the said fine, such right, claim, and interest, as they have to or in the said lands, tenements, or other hereditaments, at the time of such fine

When and how fines shall terminate

ingroſſed, ſo that they purſue their title, claim, or intereſt, by way of action or lawful entry, within five years next after the ſaid proclamations had and made, and ſaving alſo to all perſons, ſuch action, right, title, claim, and intereſt, in or to the ſaid lands, tenements, or other hereditaments, as firſt ſhall grow, remain, deſcend, or come to them, after the ſaid fine ingroſſed, and proclamation made by force of any gift, or by any other cauſe or matter had and made before the ſaid fine levied, ſo that they take their action, or purſue their ſaid right or title according to law, within five years next after ſuch action, right, claim, title or intereſt to them accrued, deſcended, fallen or come, and that they and their heirs may have their ſaid action, againſt the *pernor* of the profits of the ſaid lands, tenements, and other hereditaments, at the time of the ſaid action to be taken; and if the ſame perſons at the time of ſuch action, right and title accrued, deſcended, remained or come unto them, be covert of baron, or within age, or in priſon, or out of this State, or not of ſound mind, then their action, right and title, to be reſerved and ſaved to them, and to their heirs, unto the time that they came and be at their full age of twenty-one years, out of priſon within this State, diſcovert, and of ſound mind, ſo that they or their heirs take and purſue, according to law, their ſaid actions, or their lawful entry, according to their right and title, within five years, next after they come and be at their full age, out of priſon, within this State, diſcovert, and of ſound mind. And further, that all ſuch perſons as be *covert of baron*, and not party to the fine, and every perſon being within the age of twenty one years, or in priſon, or out of this State, or not of ſound mind at the time of the ſaid fine levied and ingroſſed, and by this act before excepted, having any right or title, or cauſe of action, to any of the ſaid lands, tenements, or other hereditaments, that they or their heirs inheritable to the ſame, take their ſaid actions, or lawful entry, according to their right and title, within five years next after they come and be of the age of twenty-one years, out of priſon, within this State, diſcovert, and of ſound mind, and the ſame actions ſue, or their lawful entry take and purſue, according to law; and if they do not take their actions and entry as is aforeſaid, they and every of them, and their heirs, and the heirs of every of them, ſhall be concluded by the ſaid fine forever, in like form as they be that be parties or privies to the ſaid fine, ſaving to every perſon and perſons not party nor privy to the ſaid fine, their exception to avoid the ſame fine, for that thoſe who were parties to the ſaid fine, had nothing, nor either of them, nor any perſon or perſons to their uſe, nor to the uſe of either of them, had any thing in the lands and tenements compriſed in the ſaid fine, at the time of the ſaid fine levied.

Where no entry on lands ſhall avoid fines.

VI. *And be it further enacted by the authority aforeſaid*, That no entry to be made upon any lands, tenements, or hereditaments, ſhall be of any force or effect to avoid any fine levied, or to be levied, with proclamations in the ſaid Supreme Court, unleſs upon ſuch entry, an action ſhall be commenced within one year after making ſuch entry, and proſecuted with effect.

Writs whereon fines ſhall be levied, to be of record forever.

VII. *And be it further enacted by the authority aforeſaid*, That every writ of covenant, and other writ whereupon any fine ſhall hereafter be levied, with the return thereof, the writ of *dedimus poteſtatem*, for taking the acknowledgment or cognizance of any of the ſame fines, with the return thereof, the concord, note, and foot of every ſuch fine, the proclamations thereupon, and the licence to agree, and alſo every original writ of entry in the poſt, or other writ, whereupon any common recovery ſhall hereafter be ſuffered or paſſed, with the returns of the ſame writs, and the writs of ſummons *ad warrantizandum*, with the returns thereof, and every warrant of attorney, as well of every demandant and tenant, as vouchee, ſhall and may be inrolled in rolls of parchment, to be of record forever, and to remain in the ſafe cuſtody of the Clerk of the Supreme Court, and his ſucceſſors. And that the ſaid inrollments ſhall be of as good force and validity in law, to all intents and purpoſes, as the ſame writs, concords, notes, feet, and warrants of attorney ought to be by law. And further, that the original writ whereupon any fine ſhall be levied, with the return thereof, the warrants of attorney, if there be any, taken before any or either of the Juſtices of the Supreme Court, the licence to agree, and concord of every fine, ſhall be inrolled upon one and the ſame roll; and the writs of *dedimus poteſtatem*, if there be any, with the returns thereof, and the note and foot of the ſame fine ſhall be inrolled upon ſeparate rolls.

And

And for the more easy discovery of fines, and the security of purchasers,

VIII. *Be it further enacted by the authority aforesaid*, That the counterpart of the foot of every fine hereafter to be levied, which is to be delivered to the party, shall be signed by one of the Judges of the said Supreme Court, and by the Clerk of the said court, and shall be recorded by the Clerk of the city or county where the lands or tenements comprised in the same fine shall be situated, in a book to be by him kept for that purpose, within one year next after the ingrossing of the same fine, at the expence of the party to whom the same shall be levied: And that the respective Clerks of every city and county of this State for the time being shall, without fee or reward, immediately after recording the same, make and write, or cause to be made or written, a table or note, wherein shall be contained the contents of the same fine, so recorded in their respective offices, that is to say, the names of the parties, and description of the lands and tenements comprised in such fine, and the time of levying the same; and shall, on the first day of the next General Sessions of the Peace for the same city or county, affix the same on the principal door of the court-house of the same city or county, and see that the same continue there during the same sessions, upon pain that every Clerk offending therein, shall forfeit the sum of ten pounds; one moiety thereof to the People of this State, and the other moiety to him or them who will sue for the same in any court of record, by action of debt, bill, plaint, or information.

Clause to make the discovery of fines more easy, and to secure purchasers.

IX. *And be it further enacted by the authority aforesaid*, That no fines, proclamation upon fines, or common recovery, heretofore had, levied, suffered, or passed, or hereafter to be had, levied, suffered, or passed, shall be reversable by any writ of error, for any razure, interlining, misentering of any warrant of attorney, or of any proclamation, misreturning or not returning of the Sheriff, or other want of form in words, and not in matter of substance.

No fine to be reversable for want of form, &c.

X. *And be it further enacted by the authority aforesaid*, That no fine or common recovery shall hereafter be reversed or avoided, for any error or defect therein, unless the writ of error, or suit for reversing such fine or recovery be commenced or brought, and prosecuted with effect, within five years after such fine levied, or recovery suffered.

Nor unless a writ of error be brought in five years.

*Provided always*, That if any person who is or shall be entitled to any such writ of error as aforesaid, shall, at the time of such title accrued, be within the age of twenty-one years, or *covert of baron*, or imprisoned, or not of sound mind, or out of this State, then such person, or his or her heirs, notwithstanding the said five years expired, shall and may bring his, her, or their writ of error, for reversing any such fine or recovery, so as the same be brought within five years after his or her full age, discoverture, enlargement out of prison, coming of sound mind, or coming within this State, but not afterwards, or otherwise.

Proviso.

## CHAP. XLIV.

AN ACT *for the Prevention of Frauds*. Passed the 26th of February, 1787.

BE it Enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That all deeds of gift, and conveyances of goods and chattels, made or to be made in trust to the use of the person or persons making the same deed of gift, or conveyance, shall be, and hereby are declared to be void, and of none effect.

Conveyances in trust to the conveyer, to be void.

And for the avoiding and abolishing of all feigned, covenous, and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments, and executions, as well of lands, and tenements, as of goods and chattels, which have been, and are devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose, and intent, to delay, hinder or defraud creditors and others, of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, and demands, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargaining, and chevisance, between man and man, without which no commonwealth or civil society can be maintained or continued.

Recital.
13 Eliz c. 5.

II. *Be*

Feigned, covenous, and fraudulent conveyances, to be void.

13 Eliz. c. 5

III. *Be it further enacted by the authority aforeſaid*, That all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or of any of them, or of any leaſe, rent, common or other profit or charge out of the ſame lands, tenements, hereditaments, goods, or chattels, or any of them, by writing or otherwiſe, and all and every bond, ſuit, judgment and execution, at any time had or made, or hereafter to be had or made, to or for any intent or purpoſe before declared and expreſſed, ſhall be from henceforth deemed and taken (only as againſt that perſon or perſons, his, her, or their heirs, ſucceſſors, executors, adminiſtrators and aſſigns, and every of them, whoſe actions, ſuits, debts, accounts, damages, penalties, forfeitures, and demands, by ſuch guileful, covenous, or fradulent devices and practices as aforeſaid) are, or ſhall, or may be in anywiſe diſturbed, hindred or defrauded) to be clearly and utterly void, fruſtrate, and of none effect, any pretence, colour, feigned conſideration, expreſſing of uſe, or any other matter or thing to the contrary notwithſtanding.

Recital.

And for as much as not only the People of this State, but divers of the citizens thereof, and bodies politic and corporate, after conveyances obtained or to be obtained, and purchaſes made or to be made, of lands tenements, leaſes, eſtates, and hereditaments for money or other good conſiderations, may have, incur and receive great loſs and prejudice, by reaſon of fraudulent and covenous conveyances, eſtates, gifts, grants, charges, and limitations of uſes heretofore made, or hereafter to be made, of, in, or out of the lands, tenements, or hereditaments ſo purchaſed, or to be purchaſed; which ſaid gifts, grants, charges, eſtates, uſes, and conveyances were, or hereafter ſhall be meant and intended by the parties who ſo make the ſame, to be fraudulent and covenous, of purpoſe and intent to deceive ſuch as have purchaſed, or ſhall purchaſe the ſame, or elſe by the ſecret intent of the parties, the ſame to be to their own proper uſe, and at their free diſpoſition, coloured nevertheleſs by a feigned countenance, and ſhew of words and ſentences, as though the ſame were made *bona fide* for good cauſes, and upon juſt and lawful conſiderations.

For remedy of which inconveniences, and for the avoiding of ſuch fraudulent, feigned, and covenous conveyances, gifts, grants, Charges, uſes, and eſtates, and for the maintenance of upright and juſt dealing in the purchaſing of lands, tenements, and hereditaments,

Clauſe for maintaining upright dealings in purchaſes, &c.

27 Eliz. c. 4

IV. *Be it further enacted by the authority aforeſaid*, That all and every conveyance, grant, charge, leaſe, eſtate, incumbrance, and limitation of uſe or uſes, of, in, or out of any lands, tenements, or other hereditaments whatſoever, had or made, or hereafter to be had or made, for the intent and purpoſe to defraud and deceive ſuch perſon or perſons, bodies politic or corporate, as have purchaſed, or ſhall hereafter purchaſe any eſtate of inheritance, or for life, lives, or years, of or in the ſame lands, tenements, or hereditaments, or any part or parcel thereof, ſo before conveyed, granted, leaſed, charged, incumbered, or limited, in uſe, or to defraud and deceive ſuch as have or ſhall purchaſe any rent, profit, or commodity, in or out of the ſame, or any part thereof, ſhall be deemed and taken (only as againſt the perſon and perſons, bodies politic and corporate, his, her, and their heirs, ſucceſſors, executors, adminiſtrators, and aſſigns, and againſt all and every other perſon and perſons, lawfully having or claiming by, from, or under them, or any of them, who have purchaſed, or ſhall hereafter ſo purchaſe, for money, or other good conſideration, the ſame lands, tenements, or hereditaments, or any part or parcel thereof, or any rent, profit, or commodity, in or out of the ſame, to be utterly void, fruſtrate, and of none effect; any pretence, colour, feigned conſideration, or expreſſing of any uſe or uſes to the contrary notwithſtanding.

Penalty on perſons juſtifying covenous grants, &c.

27 Eliz. c. 4

V. *And be it further enacted by the authority aforeſaid*, That all and every the parties to ſuch feigned, covenous, or fraudulent feoffment, gift, grant, alienation, bargain, leaſe, charge, conveyance, bonds, ſuits, judgments, executions, and other things before expreſſed, or being privy and knowing of the ſame, or any of them, who at any time hereafter ſhall wittingly and willingly put in uſe, avow, maintain, juſtify, or defend the ſame, or any of them, as true, ſimple, and done, had, or made *bona fide*, and upon good conſideration, or ſhall alien or aſſign any the lands, tenements, goods, leaſes, or other things beforementioned, to him, her, or them conveyed as aforeſaid, or any part thereof,

ſhall

ſhall incur the penalty and forfeiture of one year's value of the ſaid lands, tenements, and hereditaments, leaſes, rents commons, or other profits, of or out of the ſame,† and the whole value of the ſaid goods and chattels, and alſo ſo much money as is or ſhall be contained in any ſuch covenous and feigned bond; the one moiety whereof to be to the People of the State of New-York, and the other moiety to the party or parties grieved by ſuch feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, ſuits, judgments, executions, leaſes, rents, commons, profits, charges, and other things aforeſaid, to be recovered in any court of record, by action of debt, bill, plaint, or information.

† 13 Eliz. c. 5

VI. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons have made, or hereafter ſhall make any conveyance, gift, grant, demiſe, charge, limitation of uſe or uſes, or aſſurance, of, in, or out of any lands, tenements, or hereditaments, with any clauſe, proviſion, article, or condition of revocation, determination, or alteration at his, her, or their will or pleaſure, of ſuch conveyance or aſſurance, gift, grant, limitation of uſe or uſes, or eſtates, of, in, or out of the ſaid lands, tenements, or hereditaments, or of, in, or out of any part or parcel of them, contained or mentioned in any writing, deed, or indenture, and after ſuch conveyance, gift, grant, demiſe, charge, limitation of uſe or uſes, or aſſurance ſo made, or had, ſhall or do bargain, ſell, demiſe, grant, convey, or charge the ſame lands, tenements, or hereditaments, or any part or parcel thereof, to any perſon or perſons, bodies politic and corporate, for money, or other good conſideration paid or given, (the ſaid firſt conveyance, aſſurance, gift, grant, demiſe, charge, or limitation, not by him, her, or them revoked, made void, or altered, according to the power and authority reſerved or expreſſed unto him, her, or them, in and by the ſaid ſecret conveyance, aſſurance, gift, or grant) then the ſaid former conveyance, gift, grant, demiſe, charge, limitation of uſe and uſes, and aſſurance, as touching the ſaid lands, tenements, and hereditaments, ſo after bargained, ſold, demiſed, granted, conveyed, or charged againſt the ſaid bargainees, vendees, leſſees, grantees, and every of them, their heirs, ſucceſſors, executors, adminiſtrators, and aſſigns, and againſt all and every perſon and perſons who have or claim, or ſhall or may lawfully have or claim any thing, by, from, or under them, or any of them, ſhall be deemed, taken, and adjudged to be void, fruſtrate, and of none effect, by virtue and force of this act.

Perſons granting lands, with clauſe of revocation, and afterwards ſells the ſame to another, the former grant to be void.

27 Eliz. c. 4.

VII. *Provided always, And be it further enacted by the authority aforeſaid*, That this act, or any thing therein contained, ſhall not extend, or be conſtrued to impeach, defeat, make void, or fruſtrate any conveyance, aſſignment of leaſe, aſſurance, grant, charge, leaſe, eſtate, intereſt, or limitation of uſe or uſes, of, in, to, or out of any lands, tenements, or hereditaments, goods, or chattels, at any time heretofore had or made, or hereafter to be had or made, upon or for good conſideration, and *bona fide* to any perſon or perſons, bodies politic or corporate, not having at the time of ſuch conveyance or aſſurance to him, her, or them made, any manner of notice or knowledge of ſuch *covin*, fraud, or colluſion, as is aforeſaid; and that no lawful mortgage, made or to be made, *bona fide*, and without fraud or covin, and upon good conſideration, ſhall be impeached or impaired by force of this act, but the ſame ſhall ſtand in like force and effect as the ſame ſhould have done, if this act had never been made, any thing before in this act to the contrary in any wiſe notwithſtanding.

Certain conveyances not to be impeached by this act,

H. H.

Nor any lawful mortgage.

And whereas ſundry common recoveries of lands, tenements, and hereditaments, have been had, and hereafter may be had, againſt a tenant of the freehold, the reverſion, or remainder, or the right of the reverſion or remainder, then being in ſome other perſon or perſons.

Recital.

VIII. *Be it further enacted by the authority aforeſaid*, That every ſuch common recovery heretofore had, and hereafter to be had, of any lands, tenements, or hereditaments, ſhall, as touching ſuch perſon and perſons who then had any reverſion or remainder, or right of reverſion or remainder, and againſt the heirs of every of them, ſtand, remain, and be of ſuch like force and effect, and of none other, as the ſame ſhould have been if this act had never been made. *Provided always*,

Commmon recoveries not to be affected by this act,

IX. *And be it further enacted by the authority aforeſaid*, That this act, or any thing herein before contained, ſhall not extend to make void any eſtate or conveyance, by reaſon whereof any perſon or perſons ſhall uſe any voucher in any writ of *formedon*,

Nor any vouchers in writs of Formedon.

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now depending, or hereafter to be depending; but that all and every ſuch vouchers in any writ of formedon, ſhall ſtand and be in like force and effect, as if this act had never been made.

And for the prevention of many fraudulent practices, which are commonly endeavored to be upheld by perjury, and ſubornation of perjury,

All eſtates by Livery and Seiſin, or Parol, to be conſidered as eſtates at will only.

20 Car. 2 c. 3. ſ. 1 ſame as this act

X. *Be it further enacted by the authority aforeſaid*, That all leaſes, eſtates, intereſt of freehold, or terms of years, or any uncertain intereſts of, in, to, or out of any meſſuages, manors, lands, tenements, or hereditaments, made or created, or hereafter to be made or created, by *livery and ſeiſin* only, or by *parol*, and not in writing, and ſigned by the parties ſo making and creating the ſame, or their agents thereunto lawfully authoriſed by writing, ſhall have the force and effect of leaſes, or eſtates at will only, and ſhall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any conſideration for making any ſuch parol, leaſes, or eſtates, or any former law or uſage to the contrary notwithſtanding.

Exceptions.

*Except nevertheleſs*, all leaſes not exceeding the term of three years from the making thereof, whereupon the rent reſerved to the landlord during ſuch term, ſhall amount unto two third parts, at the leaſt, of the full improved value of the thing demiſed.

Eſtates on intereſt, &c. how they may be aſſigned.

XI. *And be it further enacted by the authority aforeſaid*, That no leaſes, eſtates, or intereſts, either of freehold, or terms of years, or any uncertain intereſt of, in, to, or out of any meſſuages, manors, lands, tenements, or hereditaments, ſhall at any time hereafter be aſſigned, granted, or ſurrendered, unleſs it be by deed or note in writing, ſigned by the party ſo aſſigning, granting, or ſurrendering the ſame, or their agents thereunto lawfully authoriſed by writing, or by act and operation of law.

No executor compelled to anſwer damages out of his own eſtate.

XII. *And be it further enacted by the authority aforeſaid*, That no action ſhall be brought whereby to charge any executor or adminiſtrator, upon any ſpecial promiſe to anſwer damages out of his own eſtate, or whereby to charge the defendant, upon any ſpecial, promiſe, to anſwer for the debt, default, or miſcarriages of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage, or upon any contract or ſale of lands, tenements, or hereditaments, or any intereſt in or concerning them, or upon any agreement that is not to be performed within the ſpace of one year from the making thereof, unleſs the agreement upon which ſuch action ſhall be brought, or ſome memorandum or note thereof ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon thereunto by him or her lawfully authoriſed.

Declarations of truſt, how to be manifeſted and proved.

XIII. *And be it further enacted by the authority aforeſaid*, That all declarations or creations of truſts or confidences, of any lands, tenements, or hereditaments, ſhall be manifeſted and proved by ſome writing ſigned by the party who is or ſhall be by law enabled to declare ſuch truſt, or by his laſt will in writing, or elſe they ſhall be utterly void, and of none effect; But all declarations or creations of uſes, truſts, or confidences, of any fines, or common recoveries of any lands, tenements, or hereditaments, manifeſted and proved, or which hereafter ſhall be manifeſted and proved, by any deed already made, or hereafter to be made, by the party who is or ſhall be by law enabled to declare ſuch uſes or truſts, after the levying or ſuffering of any ſuch fines or recoveries, are and ſhall be as good and effectual in the law, as if this clauſe of this act had not been made.

4 & 5 Ann. c. 16.

This act not to affect certain truſts.

XIV. *Provided always, And be it further enacted by the authority aforeſaid*, That where any conveyance hath been or ſhall be made, of any lands, tenements, or hereditaments, by which a truſt or confidence ſhall or may ariſe or reſult by implication or conſtruction of law, or be transferred or extinguiſhed by act or operation of law, then, and in every ſuch caſe, ſuch truſt or confidence ſhall be of the like force and effect as the ſame would have been, if this act had not been made.

Aſſignments of truſts, how to be made.

XV. *And be it further enacted by the authority aforeſaid*, That all grants and aſſignments of any truſt or confidence, ſhall likewiſe be in writing, ſigned by the party granting or aſſigning the ſame, or by his or her laſt will in writing, or elſe ſhall likewiſe be utterly void, and of none effect.

Contracts not binding, unleſs earneſt is given.

XVI. *And be it further enacted by the authority aforeſaid*, That no contract for the ſale of any goods, wares, and merchandize, for the price of ten pounds or upwards, ſhall be allowed to be good, except the buyer ſhall accept part of the goods ſo ſold, and actually

actually receive the ſame, or give ſomething in earneſt to bind the bargain, or in part of payment, or that ſome note or memorandum in writing of the ſaid bargain be made and ſigned by the parties to be charged by ſuch contract, or their agents thereunto lawfully authoriſed.

## CHAP. XLV.

AN ACT *concerning the Proofs, Acknowledgments, and Regiſtry of certain Deeds and Conveyances.* Paſſed the 1ſt of March, 1787.

Preamble.

WHEREAS, during the late war between the United States of America, and the King of Great-Britain, many deeds, conveyances, and writings, relating to the title or property of lands, meſſuages, tenements, or hereditaments within this State, executed *bona fide*, and for good and valuable conſiderations, within the ſouthern diſtrict of this State, have been proved and acknowledged before, and regiſtred by perſons reſiding in the ſaid diſtrict, and deriving their authority from the ſaid King:

Further preamble.

*And whereas* it has now become impracticable, from the death of many perſons, and the removal of others from this State, before and ſince the concluſion of the ſaid war, to have the ſaid deeds, conveyances, and writings proved, acknowledged, and regiſtered, in the manner required by the laws of this State, by reaſon whereof many of the ſaid deeds, conveyances, and writings, will be rendered altogether invalid and ineffectual. *Therefore,*

What bona fide conveyances declared legal.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all deeds, conveyances, and writings, relating to the title or property of any lands, meſſuages, tenements, or hereditaments, within this State, which have been, executed *bona fide*, and for good or valuable conſiderations, within the ſouthern diſtrict of this State, after the ninth day of July, in the year one thouſand ſeven hundred and ſeventy-ſix, and before the twenty-fifth day of November, one thouſand ſeven hundred and eighty-three, and have been proved and acknowledged before, and regiſtered by any perſon or perſons reſiding in the ſaid diſtrict, and deriving authority for the purpoſe from the ſaid King of Great-Britain, in the mode and manner which have been uſual in caſes of the like nature, whilſt this State was a Colony, ſhall be as valid and effectual in the law, and ſhall have the like operation and effect, in every reſpect, to all intents, conſtructions, and purpoſes whatſoever, as if the ſaid deeds, conveyances, and writings, had been proved and acknowledged before, and regiſtered by perſons duly authoriſed by the laws of this State to take the proofs and acknowledgments of the ſaid deeds, conveyances, and writings, and to regiſter the ſame.

Proviſo.

*Provided always,* That nothing in this act ſhall be conſtrued to prevent or ſtay any execution or writ of poſſeſſion, in any cauſe wherein judgment has been given, and no execution or writ of poſſeſſion iſſued.

## CHAP. XLVI.

AN ACT *to complete the running a certain Line of Juriſdiction therein mentioned, between this State, and the Commonwealth of Maſſachuſetts.* Paſſed the 1ſt of March, 1787.

Preamble, reciting a former agreement between New-York and Maſſachuſetts.

WHEREAS an agreement was made and entered into, on the eighteenth day of May, in the year of our Lord, one thouſand ſeven hundred and ſeventy-three, between Commiſſioners appointed by an act of the Legiſlature of the late Colony of New-York, and Commiſſioners appointed by an act of the Legiſlature of the late Colony of the Maſſachuſetts-Bay, which agreement is in the words following, to wit,

"THIS

Form of the agreement.

" THIS AGREEMENT indented, made the eighteenth day of May, in the " thirteenth year of the reign of his moſt gracious majeſty George the third, King of " Great-Britain, France, and Ireland, Defender of the Faith, &c. and in the year of " our Lord, one thouſand ſeven hundred and ſeventy-three, BETWEEN John Watts, " William Smith, Robert R. Livingſton, and William Nicoll, Eſquires, duly authoriſed " to make ſuch agreement, by virtue of a law of the Province of New-York, of the " one part; and William Brattle, Joſeph Hawley, and John Hancock, Eſquires, " thereunto alſo duly authoriſed by virtue of a law of the Province of Maſſachuſetts-Bay, " of the other part, WITNESSETH, That the Commiſſaries aforeſaid being met at " Hartford, in the Colony of Connecticut, for the ſettlement of a partition line of " juriſdiction between the ſaid Provinces of New-York and the Maſſachuſetts-Bay, on " the eaſterly part of the ſaid Province of New-York, and from the ſouth to the north " boundaries of the ſaid Maſſachuſetts-Bay, in purſuance of the ſaid laws, and certain " commiſſions reſpectively iſſued to the Commiſſaries above named, by the Governors " of the Provinces aforeſaid, and in compliance with the Royal recommendation here- " tofore ſignified to Sir Henry Moore, Baronet, and Francis Bernard, Eſquire, the then " Governors of the ſaid Provinces, by letters from the Right Honorable the Earl of " Shelburne, late one of his Majeſty's principal Secretaries of State; and after having " had divers conferences relative to the aforeſaid boundary of the ſaid Provinces, they, " the ſaid Commiſſaries, do thereupon unanimouſly agree that the following line, " *that is to ſay*, A line beginning at a place fixed upon by the two governments of New- " York and Connecticut, in or about the year of our Lord, one thouſand ſeven hundred " and thirty one, for the north-weſt corner of a tract of land commonly called the " Oblong, or Equivalent Land, and running from the ſaid corner, north twenty- " one degrees ten minutes and thirty ſeconds eaſt, as the magnetic needle now points, to " the north line of the Maſſachuſetts-Bay, ſhall at all times hereafter be the line of " juriſdiction between the ſaid Province of the Maſſachuſetts-Bay, and the ſaid Province " of New-York, in all and every part and place where the ſaid Province of New-York, " on its eaſtern boundary, ſhall adjoin on the ſaid Province of the Maſſachuſetts-Bay. " IN TESTIMONY WHEREOF, the Commiſſioners aforeſaid have hereunto ſet " their hands and ſeals, the day and year firſt above mentioned."

Further preamble.

*And whereas* the Governors of the ſaid Colonies of New-York and Maſſachuſetts-Bay, by an inſtrument in writing under their hands and ſeals reſpectively, bearing date the eighteenth day of May, in the year of our Lord, one thouſand ſeven hundred and ſeventy-three, ſignified their approbation of the ſaid agreement; which ſaid inſtrument is in the words following, to wit,

Approbation of the reſpective Governors to the ſaid agreement.

" WE, the Governors of the Provinces aforeſaid, having been preſent at the execu- " tion of the agreement aforeſaid, in teſtimony of our conſent thereto, and of our appro- " bation thereof, have hereunto ſet our hands and ſeals, at Hartford aforeſaid, this " eighteenth day of May, in the year of our Lord, one thouſand ſeven hundred and " ſeventy-three, and the thirteenth year of his Majeſty's reign."

Preamble.

*And whereas*, ſince the ſettlement of the ſaid juriſdiction line in manner aforeſaid, Commiſſioners and Surveyors have been twice appointed on the part of the ſaid State of New-York, and Commonwealth of Maſſachuſetts, reſpectively, to run and mark the ſaid line purſuant to the articles of agreement; and although ſuch Commiſſioners, in both inſtances, proceeded in part to run the ſaid line, yet they could not agree ſo as to complete the ſame. And whereas the borderers on the ſaid line now ſuffer great inconvenience and injuſtice by being expoſed to taxation under the authority of both governments, and a regard to their ſecurity and the public tranquility require that ſome adequate remedy ſhould be provided.

Further preamble.

*And whereas* the time limited by the act, entitled, " An act to authoriſe the United States in Congreſs aſſembled, to appoint Commiſſioners to complete the running a cer- tain line of juriſdiction therein mentioned, between this State and the Commonwealth of Maſſachuſetts," paſſed the ſeventh day of March, 1785, in which the Commiſſioners thereby appointed, were to execute the truſt repoſed in them, will expire on the ſeventh day of March next:

THEREFORE,

I. Be

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful to and for the United States of America, in Congreſs aſſembled, and they are hereby fully authoriſed to appoint two ſkilful, judicious, and diſintereſted perſons, who, together with John Ewing, David Rittenhouſe, and Thomas Hutchins, Eſquires, ſhall be Commiſſioners to run out, ſurvey, mark, and aſcertain the ſaid line of juriſdiction between this State and the Commonwealth of Maſſachuſetts, according to the true intent and meaning of the articles of agreement herein before recited.

Congreſs to appoint perſons to run a juriſdiction line between this State and Maſſachuſetts.

II. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the Honorable Robert Yates, Eſquire, Philip Schuyler, Gerard Bancker, and Simeon De Witt, Eſquires, or any two of them, with the aſſiſtance of the ſaid John Ewing, David Rittenhouſe, and Thomas Hutchins, and the Commiſſioners ſo to be appointed by the ſaid United States, or a majority of them, or a majority of ſuch of them as ſhall attend, to agree with any Agent or Agents thereunto appointed, or to be appointed by the Commonwealth of Maſſachuſetts, on what principles the ſaid line ſhall be run; and if ſuch agreement cannot be effected, then the ſaid John Ewing, David Rittenhouſe, and Thomas Hutchins, and the other Commiſſioners ſo to be appointed by the ſaid United States, or a majority of them, or a majority of ſuch of them as ſhall attend, are hereby fully authoriſed and empowered to eſtimate the variation of the variation of the needle ſince the ſaid eighteenth day of May, 1773, on ſuch principles as to them ſhall appear juſt and equitable, and to run the ſaid line accordingly.

Commiſſioners on the part of New-York, authoriſed to agree with thoſe of Maſſachuſetts.

In caſe of non-agreement, Congreſs Commiſſioners to determine the line.

III. *And be it further enacted by the authority aforeſaid,* That the line ſo to be run, marked, and aſcertained by the ſaid Commiſſioners, or by ſuch majority as aforeſaid, according to the true intent and meaning of the ſaid Articles of Agreement, ſhall be, and forever hereafter remain a juriſdiction or boundary line, as far as the ſame ſhall extend, between the Commonwealth of Maſſachuſetts, and this State.

The ſaid line to be a perpetual boundary.

*Provided always,* That the ſaid Commiſſioners ſhall, before they proceed upon the execution of their truſt, be reſpectively ſworn in the preſence of a Magiſtrate, to perform the ſame faithfully and impartially, according to the beſt of their ſkill and judgment; and ſhall, within two years from the paſſing of this act, complete the ſaid ſurvey, and make a true and exact return thereof into the Secretary's office of the United States in Congreſs aſſembled, in order there to be filed, as a perpetual evidence of the ſaid juriſdiction line.

Proviſo.

*Provided alſo,* That the Legiſlature of the Commonwealth of Maſſachuſetts ſhall conſent to ſuch appointment of Commmiſſioners, and ſhall, within nine months from the paſſing of this act, paſs a law for veſting the United States in Congreſs aſſembled, with ſimilar powers and authorities as are veſted in them, in and by this act.

Further proviſo.

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid Robert Yates, Philip Schuyler, Gerard Bancker, and Simeon De Witt, ſhall furniſh the Commiſſioners with the neceſſary documents and papers relative to the ſaid line, and diſburſe and pay, from time to time, the one half of the expences attending the ſurvey, as well as to pay the ſaid Commiſſioners the one moiety of their ſervices; and they, or any two of them, are hereby authoriſed to draw upon, and receive from the Treaſurer of this State, a ſum not exceeding five hundred pounds, for the purpoſes aforeſaid, and for which they ſhall be accountable to this State.

Perſons to furniſh papers, expences, &c.

V. *And be it further enacted by the authority aforeſaid,* That the act, entitled, "An act to authoriſe the United States in Congreſs aſſembled, to appoint Commiſſioners to complete the running a certain line of juriſdiction therein mentioned, between this State and the Commonwealth of Maſſachuſetts," paſſed the 7th day of March, 1785, and the act ſupplementary thereto, paſſed the 29th day of April, 1786, are hereby ſeverally repealed.

Former acts, &c. repealed.

## CHAP. XLVII.

### AN ACT *to reduce the Laws concerning Wills, into one Statute.*
Paſſed the 3d of March, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all and every perſon and perſons having a ſole eſtate or intereſt in fee ſimple, or of any eſtate of inheritance, or ſeiſed in fee ſimple in coparceny, or in common in fee ſimple, or of any eſtate of inheritance, of and in any manors, lands, tenements, rents, or other hereditaments, in poſſeſſion, reverſion, or remainder, or of rents or ſervices incident to any reverſion or remainder, ſhall have full and free liberty, power, and authority, to give, diſpoſe, will, or deviſe, to any perſon or perſons (except bodies politic and corporate) by his laſt will and teſtament in writing, or otherwiſe by any act or acts lawfully executed in his life-time, by himſelf ſolely, or by himſelf and others jointly, ſeverally, or particularly, or by all thoſe ways, or any of them, as much as in him of right is or ſhall be, all his ſaid manors, lands, tenements, rents, and hereditaments, or any of them, or any rents commons, or other profits or commodities, out of, or to be perceived of the ſame, or out of any part thereof, at his own free will and pleaſure. *Provided always,*

Perſons may deviſe eſtates to any, except bodies politic and corporate,
32 Hen. 8. c. 1
34 & 35 Hen. 8. c. 5.

II. *And it is further enacted by the authority aforeſaid,* That all deviſes and bequeſts of any manors, lands, tenements, rents, or hereditaments, or of any rents, commons, or other profits or commodities, out of, or to be perceived of the ſame, ſhall be in writing, and ſigned by the party ſo deviſing the ſame, or by ſome other perſon in his preſence, and by his expreſs directions; and ſhall be atteſted and ſubſcribed in the preſence of the ſaid deviſor, by three or more credible witneſſes, or elſe they ſhall be utterly void, and of none effect.

Such wills how to be made and executed.
29 Car. 2. c. 3

III. *And be it further enacted by the authority aforeſaid,* That no deviſe or bequeſt in writing, of any manors, lands, tenements, rents, or hereditaments, or of any rents, commons, or other profits or commodities, out of, or to be perceived of the ſame, or out of any parcel thereof, or any clauſe thereof, ſhall be revocable, otherwiſe than by ſome other will or codicil in writing, or other writing declaring the ſame, or by burning, cancelling, tearing, or obliterating the ſame, by the teſtator himſelf, or in his preſence, and by his direction and conſent; but all deviſes and bequeſts of any manors, lands, tenements, rents, or hereditaments, or of any rents, commons, or other profits or commodities, out of, or to be perceived of the ſame, or out of any parcel thereof, ſhall remain and continue in force, until the ſame be burnt, cancelled, torn, or obliterated by the teſtator, or by his directions, in manner aforeſaid, or unleſs the ſame be revoked or altered by ſome other will or codicil in writing, or other writing of the deviſor, ſigned in the preſence of three or more witneſſes, declaring the ſame.

How ſuch wills may be cancelled.
M.

IV. *And be it further enacted by the authority aforeſaid,* That all eſtates *pur auter vie,* ſhall be deviſable by will in writing, ſigned by the party ſo deviſing the ſame, or by ſome other perſon in his preſence, and by his expreſs directions, and atteſted and ſubſcribed in the preſence of the deviſor, by three or more witneſſes. And if no ſuch deviſe thereof be made, the ſame, or ſo much thereof as ſhall not be ſo deviſed, ſhall go to the executors or adminiſtrators of the party who had the eſtate thereof by virtue of the grant, and ſhall be aſſets in their hands, and be applied and diſtributed in the ſame manner as the perſonal eſtate of the teſtator or inteſtate.

Eſtates pur auter vie, how deviſable.
M
14 Geo. 2. c. 20

V. *And be it further enacted by the authority aforeſaid,* That wills or teſtaments made of any manors, lands, tenements, rents, or hereditaments, or of any rents, commons, or other profits or commodities, out of, or to be perceived of the ſame by any woman covert, or perſon within the age of twenty-one years, idiot, or any perſon of unſane memory, ſhall not be taken to be good or effectual in the law.

What wills not legal.
32 Hen. 8. c. 1. 34
& 35 Hen. 8 c. 5

VI. *And be it further enacted by the authority aforeſaid,* That if any perſon hath atteſted the execution of any will or codicil, after the firſt day of March, in the year of our Lord, one thouſand ſeven hundred and fifty-three, or ſhall atteſt the execution of any will or codicil, hereafter to be made, to whom any beneficial deviſe, legacy, eſtate, intereſt, gift, or appointment, of or affecting any real or perſonal eſtate, other than, and except charges on lands, tenements, or hereditaments, for the payment of any debt or

Any will atteſted by intereſted perſons, to be void, ſo far as it relates to ſuch perſons.
25 Geo. 2. c. 6

debts,

debts, hath been or ſhall be thereby given or made, ſuch deviſe, legacy, eſtate, intereſt, gift, or appointment, ſhall ſo far only as concerns ſuch perſon atteſting the execution of ſuch will or codicil, or any perſon claiming under him, be utterly null and void. And ſuch perſon ſhall be admitted as a witneſs to the execution of ſuch will or codicil within the intent of this act, notwithſtanding ſuch deviſe, legacy, eſtate, intereſt, gift, or appointment mentioned in ſuch will or codicil.

VII. *And be it further enacted by the authority aforeſaid,* That in caſe, by any will or codicil made or to be made, any lands, tenements, or hereditaments, are or ſhall be charged with any debt or debts, and any creditor whoſe debt is ſo charged, hath atteſted, or ſhall atteſt the execution of ſuch will or codicil, every ſuch creditor, notwithſtanding ſuch charge, ſhall be admitted as a witneſs to the execution of ſuch will or codicil, within the intent of this act.

Creditors admitted as witneſs to wills.

*And further,* That if any perſon hath atteſted the execution of any will or codicil, made on or before the ſaid firſt day of March, in the year of our Lord, one thouſand ſeven hundred and fifty-three, to whom any legacy or bequeſt is thereby given, whether charged upon lands, tenements, or hereditaments, or not; and ſuch perſon, before he ſhall give his teſtimony concerning the execution of any ſuch will or codicil, ſhall have been paid or have accepted or releaſed, or ſhall have refuſed to accept ſuch legacy or bequeſt, upon tender made thereof, ſuch perſon ſhall be admitted as a witneſs to the execution of ſuch will or codicil, within the intent of this act, notwithſtanding ſuch legacy or bequeſt; and in caſe of ſuch tender and refuſal as aforeſaid, ſuch perſon ſhall in no wiſe be entitled to ſuch legacy or bequeſt, but ſhall be forever afterwards barred therefrom; and in caſe of ſuch acceptance as aforeſaid, ſuch perſon ſhall retain to his own uſe the legacy or bequeſt which ſhall have been ſo paid, ſatisfied, or accepted, notwithſtanding ſuch will or codicil ſhall afterwards be adjudged or determined to be void for want of due execution, or for any other cauſe or defect whatſoever.

In what caſe a deviſee may be a witneſs.

*And further,* That in caſe any ſuch legatee as aforeſaid, who hath atteſted the execution of any will or codicil made on or before the ſaid firſt day of March, in the year of our Lord, one thouſand ſeven hundred and fifty-three, ſhall have died in the teſtator's life-time, or before he ſhall have received or releaſed, or refuſed, on tender, his legacy; ſuch legatee ſhall be deemed a legal witneſs to the execution of ſuch will or codicil, within the intent of this act, notwithſtanding ſuch legacy or bequeſt.

Legatee dying in the teſtator's life-time, his witneſs to be deemed legal.

*Provided always,* That the credit of every ſuch witneſs ſo atteſting the execution of any will or codicil, in any of the caſes in this act before mentioned, and all circumſtances relating thereto, ſhall be ſubject to the conſideration and determination of the Court and the Jury before whom any ſuch witneſs ſhall be examined, or his teſtimony or atteſtation made uſe of, or of the Court of equity, in which the teſtimony or atteſtation of any ſuch witneſs ſhall be made uſe of, in like manner, to all intents and purpoſes, as the credit of witneſſes in all other caſes ought to be conſidered of and determined.

Proviſo

VIII. *And be it further enacted by the authority aforeſaid,* That no perſon to whom any beneficial eſtate, intereſt, gift, or appointment, hath been or ſhall be given or made, which is hereby enacted to be null and void, or who ſhall have refuſed to receive any ſuch legacy or bequeſt, on tender made as aforeſaid, and who ſhall have been examined as a witneſs concerning the execution of ſuch will or codicil, ſhall, after he ſhall have been ſo examined, demand, or take poſſeſſion of, or receive any profit or benefit of or from any ſuch eſtate, intereſt, gift, or appointment, ſo given or made to him, in or by any ſuch will or codicil, or demand, receive, or accept, from any perſon or perſons whatſoever, any ſuch legacy or bequeſt, or any ſatisfaction or compenſation for the ſame, in any manner, under any colour or pretence whatſoever.

No legatee refuſing his legacy, and atteſting the will, ſhall receive any benefit therefrom.

IX. *And be it further enacted by the authority aforeſaid,* That the clauſes in this act concerning the competency or credibility of the witneſſes to wills and codicils, made on or before the ſaid firſt day of March, in the year of our Lord, one thouſand ſeven hundred and fifty-three, ſhall not extend, or be conſtrued to extend to the caſe of any heir at law, or of any deviſee in a prior will or codicil of the ſame teſtator, executed and atteſted according to this act, or any perſon claiming under either of them reſpectively, who was in quiet poſſeſſion on the ſaid firſt day of March, in the year of our Lord, one thouſand ſeven hundred and fifty-three, as to ſuch lands, tenements, and hereditaments, whereof

Reſpecting the competency of witneſſes.

whereof he was then in quiet poſſeſſion as aforeſaid, nor to any will or codicil, the validity or due execution whereof hath been conteſted in any ſuit in law or equity, commenced by the heir of ſuch deviſor, or the deviſee in any ſuch prior will or codicil, for recovering the lands, tenements, or hereditaments, mentioned to be deviſed in any will or codicil ſo conteſted, or any part thereof, or for obtaining any other judgment or decree relative thereto, and which has been already determined in favor of ſuch heir at law or deviſee, in ſuch prior will or codicil, or any perſon claiming under them reſpectively; but no poſſeſſion of any heir at law, or deviſee, in ſuch prior will or codicil as aforeſaid, or of any perſon claiming under them reſpectively, which is conſiſtent with, or may be warranted by or under any will or codicil, atteſted according to the true intent and meaning of this act, or where the eſtate deſcended, or might have deſcended to ſuch heir at law, till a future, or executory deviſe, by virtue of any will or codicil, atteſted according to this act, ſhould or might take effect, ſhall be deemed to be a poſſeſſion, within the intent of this clauſe of this act.

Where lands are directed in any will to be ſold by the executors, and part refuſe to act, ſuch as do accept may ſell the ſame.

X. *And be it further enacted by the authority aforeſaid,* That where any lands, tenements, or hereditaments, have been or ſhall be given or deviſed by any laſt will or teſtament, executed in due form of law as aforeſaid, to the executors therein named, or any of them, to be ſold, or hath been or ſhall be thereby ordered or directed to be ſold by the executors therein named, or any of them, and after the death of ſuch teſtator, part of ſuch executors named in ſuch laſt will and teſtament, refuſe or neglect to take upon him or them the execution or adminiſtration and charge of the ſame laſt will and teſtament wherein they be ſo named to be executors, and the reſidue of the executors do accept and take upon them the execution, adminiſtration, and charge of the ſame laſt will and teſtament, then all bargains and ſales of any ſuch lands, tenements, or hereditaments ſo willed, to be ſold by the executors of any ſuch teſtator, as well heretofore made, as hereafter to be made by him or them only of the ſaid executors that ſo do accept, or that heretofore have accepted and taken upon him or them any ſuch charge of adminiſtration of any ſuch will or teſtament, ſhall be as good and as effectual in the law, as if all the reſidue of the ſame executors named in the ſaid will or teſtament, ſo refuſing the adminiſtration of the ſame will or teſtament, had joined with him or them in the making of the bargain and ſale of ſuch lands, tenements, or other hereditaments, ſo willed to be ſold by the executors of any ſuch teſtator, who hath heretofore made or declared, or who hereafter ſhall make or declare any ſuch will of any ſuch lands, tenements, or other hereditaments, after his deceaſe to be ſold by his executors.

A father may by deed diſpoſe of his children minors.

XI. *And be it further enacted by the authority aforeſaid,* That when any perſon hath, or ſhall have, any child or children under the age of twenty-one years, and not married at the time of his death, that it ſhall and may be lawful to and for the father of ſuch child or children, whether born at the time of the deceaſe of the father, or at that time in *ventre ſa mere*, or whether ſuch father be within the age of twenty-one years, or of full age, by his deed executed in his life-time, or by his laſt will and teſtament in writing, ſigned by ſuch father, or by ſome other perſon in his preſence, and by his expreſs direction, and atteſted and ſubſcribed in the preſence of ſuch father, by three or more credible witneſſes, in ſuch manner and form, and from time to time, as he ſhall reſpectively think fit, to diſpoſe of the cuſtody and tuition of ſuch child or children, for and during ſuch time as he or they ſhall reſpectively remain under the age of twenty-one years, or any leſs time, to any perſon or perſons, in poſſeſſion or remainder; and that ſuch diſpoſition of the cuſtody of ſuch child or children, made, or hereafter to be made, ſhall be good and effectual, againſt all and every perſon and perſons claiming the cuſtody or tuition of ſuch child or children, as guardian in ſoccage, or otherwiſe; and that ſuch perſon or perſons to whom the cuſtody of ſuch child or children hath been or ſhall be ſo diſpoſed or deviſed as aforeſaid, ſhall and may maintain an action of raviſhment of ward, or treſpaſs, againſt any perſon or perſons who ſhall wrongfully take away or detain ſuch child or children, for the recovery of ſuch child or children; and ſhall and may recover damages for the ſame, in the ſaid action for the uſe and benefit of ſuch child or children.

XII. *And*

XII. *And be it further enacted by the authority aforeſaid*, That ſuch perſon or perſons to whom the cuſtody of ſuch child or children, hath been or ſhall be ſo diſpoſed or deviſed, ſhall and may take into his and their cuſtody, to the uſe of ſuch child or children, the profits of all lands, tenements, and hereditaments of ſuch child or children, and alſo the cuſtody, tuition, and management of the goods, chattels, and perſonal eſtate of ſuch child or children, till their reſpective age of twenty-one years, or any leſs time, according to ſuch diſpoſition aforeſaid, and may bring ſuch action or actions in relation thereunto, as by law a guardian in common ſoccage might do.

Perſons taking cuſtody of children, to have profits, &c.

XIII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for all and every perſon and perſons, by his or their teſtament or laſt will in writing, to give, bequeath, or diſpoſe of all his, her, or their goods, chattels, and perſonal eſtate, in the ſame manner as he, ſhe, or they lawfully might do, before the paſſing of this act.

Perſonal eſtate may be bequeathed.

XIV. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for widows to bequeath the crop of their ground, as well of their dowers, as of their other lands and tenements.

Privilege of widows

XV. *And be it further enacted by the authority aforeſaid*, That no *nuncupative will* heretofore made, or hereafter to be made, ſhall be good, where the eſtate thereby bequeathed ſhall exceed the value of thirty pounds lawful money of this State; unleſs the ſame be proved by the oaths of three witneſſes at the leaſt, who were preſent at the making thereof, nor unleſs it be proved that the teſtator, at the time of pronouncing the ſame, did bid the perſons preſent, or ſome of them, bear witneſs that ſuch was his or her will, or words to that effect, nor unleſs ſuch *nuncupative will* was made in the time of the laſt ſickneſs of the deceaſed, and in the houſe of his or her habitation or dwelling, or where he or ſhe hath been reſident for the ſpace of ten days, or more, next before the making of ſuch will; except where ſuch perſon was ſurpriſed or taken ſick, being from his or her own home, and died before he or ſhe returned to the place of his or her dwelling.

Nuncupative wills, how to be valid.

29 Car. 2. c. 3. ſ. 19.

XVI. *And be it further enacted by the authority aforeſaid*, That after ſix months paſſed, after the ſpeaking of the pretended teſtamentary words, no teſtimony ſhall be received to prove any nuncupative will, except the ſaid teſtimony, or the ſubſtance thereof, were committed to writing, within ſix days after the making of the ſaid will.

Proofs neceſſary to validate them.

H.

XVII. *And be it further enacted by the authority aforeſaid*, That no letters teſtamentary, or probate of any *nuncupative will*, ſhall paſs the ſeal of any court, till fourteen days at the leaſt after the deceaſe of the teſtator ſhall be fully expired; nor ſhall any *nuncupative will*, be at any time received to be proved, unleſs proceſs hath firſt iſſued, to call in the widow or next of kindred to the deceaſed, to the end they may conteſt the ſame, if they pleaſe.

Time of proving ſuch wills.

H.

XVIII. *And be it further enacted by the authority aforeſaid*, That no will or teſtament in writing, concerning any goods or chattels, or perſonal eſtate, ſhall be repealed; nor ſhall any clauſe, deviſe, or bequeſt therein be revoked, altered, or changed, by any words, or will by word of mouth only, except the ſame be, in the life-time of the teſtator, committed to writing, and after the writing thereof, read unto the teſtator, and allowed and approved of by him or her, and proved ſo to be done by three witneſſes at the leaſt.

How written wills may be repealed by nuncupative wills.

H.

XIX. *And be it further enacted by the authority aforeſaid*, That all ſuch witneſſes as are and ought to be allowed to be good witneſſes upon trials at law, by the laws and cuſtoms of this State, ſhall be deemed good witneſſes to prove any *nuncupative will*, or any thing relating thereunto.

Witneſſes neceſſary to prove nuncupative wills.

4 An. c. 16. ſ. 14

XX. *And be it further enacted by the authority aforeſaid*, That this act ſhall extend as well to wills and teſtaments made within ſixty years laſt paſt, except where it is otherwiſe herein before provided, as to wills and teſtaments hereafter to be made.

This act how far back to extend.

XXI. *Provided always, And be it further enacted by the authority aforeſaid*, That notwithſtanding this act, any ſoldier being in actual military ſervice, or any mariner or ſeaman, being at ſea, may diſpoſe of his moveables, wages, and perſonal eſtate, as he or they might have done, before the making of this act.

Proviſo.

29 Car. 2.

## CHAP. XLVIII.

AN ACT *for preventing and avoiding alienations by Tenants for Life, and Recoveries by Colluſion.* Paſſed the 3d of March, 1787.

Covenous recoveries, &c. declared void.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That if any woman who hath had, now hath, or hereafter ſhall have, any eſtate in dower, or for term of life, jointly with her huſband, or only to herſelf, or to her uſe, in any lands, tenements, or hereditaments, of the inheritance or purchaſe of her huſband, or given to the ſaid huſband and his wife for term of life, by any of the anceſtors of the ſaid huſband, or by any other perſon, ſeiſed to the uſe of the ſaid huſband or of his anceſtors, and being ſole, or with any other after taken huſband, hath diſcontinued, aliened, releaſed, or confirmed, or hereafter ſhall diſcontinue, alien, releaſe, or confirm, with warranty or without warranty, or hath ſuffered, or ſhall ſuffer, any recovery by covin againſt her, them, or any of them, or any other ſeiſed to their uſe, or to the uſe of either of them as aforeſaid, that all ſuch recoveries, diſcontinuances, alienations, releaſes, confirmations and warranties, ſo had and made, and henceforth to be had and made, ſhall be utterly void and of none effect. And that it ſhall be lawful to every perſon and perſons to whom the intereſt, title, or inheritance, after the deceaſe of ſuch woman, of the ſaid lands, tenements, and hereditaments, ſo being diſcontinued, aliened, or ſuffered to be recovered as aforeſaid, do or ſhall appertain, to enter into all and every of the ſaid premiſes, and peaceably to poſſeſs and enjoy the ſame, in ſuch manner and form as he, ſhe, or they ſhould have done if no ſuch diſcontinuance, alienation warranty or recovery had been had or made. And further, that if any ſuch woman, with any ſuch after taken huſband, or any other ſeiſed, or who ſhall be ſeiſed to their or either of their uſe, of ſuch eſtate as aforeſaid, ſhall, during the coverture between them, make, or cauſe to be made, or ſuffer any ſuch diſcontinuance, alienation, warranty or recovery in form aforeſaid, that then it ſhall by lawful to the perſon or perſons to whom the ſaid lands, tenements, or hereditaments ſhould or ought to belong, after the deceaſe of the ſaid woman, immediately after the ſaid diſcontinuance, alienation, warranty, or recovery, to enter into the ſame lands, tenements, and hereditaments, and them to poſſeſs and enjoy during the life of the ſaid huſband, according to ſuch title and intereſt as they ſhould have had in the ſame, if the ſame woman had been dead, and no diſcontinuance, warranty, nor recovery had: But that the ſaid woman, in ſuch caſe, after the deceaſe of the ſaid huſband, if ſhe ſurvive him, may re-enter into the ſame lands, tenements, and hereditaments, and enjoy the ſame according to her firſt eſtate in the ſame. But if the ſaid woman, at the time of ſuch diſcontinuance, alienation, recovery, or warranty, in form aforeſaid to be had, made, or ſuffered, of any of the premiſes, be ſole, that then ſhe ſhall be barred and excluded of her title and intereſt in the ſame from thenceforth; and the perſon or perſons to whom the title, intereſt, and poſſeſſion of the ſame ſhould belong, after the deceaſe of the ſaid woman, ſhall immediately after the ſaid diſcontinuance, alienation, warranty, or recovery, enter into the ſame lands, tenements, and other hereditaments, and poſſeſs and enjoy the ſame according to his, her, or their title in the ſame.

Perſons entitled, when to take poſſeſſion of the premiſes.

Woman ſole, when to be barred from recovery.

Proviſo.

*Provided always,* That this act ſhall not extend to any ſuch recovery or diſcontinuance had or to be had, with the heirs next inheritable to the ſaid woman, or where he or they that next after the death of the ſame woman, ſhould have eſtate of inheritance in the ſame lands, tenements, or hereditaments, be aſſenting or agreeable to the ſaid recovery, where the ſame aſſent or agreement is of record or inrolled.

Further proviſo.

*And provided alſo,* That it ſhall be lawful to every ſuch woman, being ſole or married, after the death of her firſt huſband, to give, ſell, or make diſcontinuance of any ſuch lands, tenements, or hereditaments, for term of her life only, after the courſe and uſe of the common law,

No fine of land, &c. to be prejudicial to heirs.

II. *And be it further enacted by the authority aforeſaid,* That no fine, feoffment, or other act or acts, made, ſuffered, or done, or hereafter to be made, ſuffered, or done, by the huſband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, ſhall in any wiſe be or

make

make any diſcontinuance thereof, or be prejudicial or hurtful to the ſaid wife, or to her heirs, or to ſuch as ſhall have right, title, or intereſt to the ſame by the death of ſuch wife: But that the ſame wife, or her heirs, and ſuch other to whom ſuch right ſhall appertain, after her deceaſe, ſhall and may then lawfully enter into all ſuch lands, tenements, and hereditaments, and hold and enjoy the ſame, according to their rights and titles therein, as if no ſuch fine, feoffment, or other act, had been done or ſuffered.

*And whereas*, when a man doth loſe by default the land which was the right of his wife, it is very hard that the wife, after the death of her huſband, ſhould have none other recovery but by writ of right: For remedy whereof,

Remedy given to widows, on default of their huſbands.

III. *Be it further enacted by the authority aforeſaid*, That a woman, after the death of her huſband, ſhall recover by a writ of entry, whereto ſhe could not diſagree during his life, which ſhall be pleaded in the following form: If the tenant do except againſt the demand of his wife, that he entered by judgment, and it be found that his entry was by default, whereto the tenant of neceſſity muſt make anſwer, if it be demanded of him, then he ſhall be compelled to make further anſwer, and to ſhew his right according to the form of the writ, that he purchaſed before againſt the huſband and the wife: and if he can verify that he hath or had right in the land demanded, the woman ſhall gain nothing by her writ; which thing, if he cannot ſhew, the woman ſhall recover the land in demand.

Wife may defend, where the huſband is abſent,

IV. *And be it further enacted by the authority aforeſaid*, That when any huſband and wife ſhall be impleaded, if the huſband abſent himſelf, and will not defend his wife's right, or againſt his wife's conſent will render the land, if the wife do come before judgment, ready to anſwer the demandant, and to defend her right, the wife ſhall be admitted without her huſband.

Perſon in reverſion may defend the right of a tenant in dower;

V. *And be it further enacted by the authority aforeſaid*, That if any tenant in dower, tenant by the courteſy, or other tenant for term of life or lives, is or ſhall be impleaded, and he, ſhe, or they to whom the reverſion or remainder doth or ſhall appertain, ſhall come into court, and pray to be received to defend his, her or their right, at the day that the tenant pleadeth to the action, or before, and before judgment, he, ſhe, or they ſhall be received to defend his, her, or their right, and to plead in chief to the action. And that days of graceſhall be given by the diſcretion of the court, between the demandant and him, her, or them who is, are, or ſhall be received in ſuch caſe, without giving the common days in pleas of land, unleſs the demandant will conſent, to the intent that the demandant be not too much delayed, becauſe he muſt plead with two adverſaries.

Proviſo.

*Provided always*, That he, ſhe, and they, who ſhall come in by a collateral title, and deſire to be received as aforeſaid, as well where the receipt is counterpleaded, as where it is granted, ſhall, before he, ſhe, or they be received, find ſufficient ſurety, as the court ſhall award, to ſatisfy the demandant of the iſſues of the tenements demanded, from the day that he, ſhe, or they ſhall be received, until the time that final judgment be given, if judgment paſs for the demandant againſt him, her or them, in reverſion or remainder aforeſaid. And if the demandant recover his demand, he ſhall alſo recover his damages and coſts of ſuit againſt ſuch tenant by receipt: But if ſuch tenant can prove his or her right to be as good as he or ſhe affirmed, at ſuch time as he or ſhe was received, then he or ſhe ſhall go quit, and recover his or her coſts againſt the demandant.

And may ue recovery after his death,

VI. *And be it further enacted by the authority aforeſaid*, That if any tenant in dower, tenant by the courteſy, or other tenant for term of life or lives, who hath been, now is, or ſhall be impleaded, hath made, or ſhall make default, or hath given, or ſhall give up the tenements demanded, and judgment hath been or ſhall be given upon ſuch default or ſurrender, then the heirs, or he, ſhe, or they to whom the reverſion or remainder doth or ſhall appertain, after the death of ſuch tenants, ſhall have their recovery by a writ of entry, in which the like proceſs ſhall be obſerved as in caſes where the huſband loſeth his wife's land by default, and ſo in the caſes aforeſaid, two actions do concur, one between the demandant and tenant, and another between the tenant ſhewing his or her right, and the demandant.

VIII. *And*

Or attaint the oath of twelve men,

VIII. *And be it further enacted by the authority aforeſaid*, That if any tenant for for term of life, tenant in dower, or tenant by the courteſy, be impleaded, and plead to an inqueſt, and loſe by the oath of twelve men, or by default, or in other manner, that the perſon or perſons to whom the reverſion or the remainder of the tenements ſo loſt doth or ſhall appertain, at the time of ſuch judgment given, his, her, or their heirs, or ſucceſſors, ſhall have an action by writ of attaint, to attaint the ſame oath, if he, ſhe, or they will aſſign the ſame oath to be falſe; and alſo by writ of error, if error be found in the record of ſuch judgment, as well in the life-time of ſuch tenants who have loſt or ſhall loſe, as after their death. And if ſuch judgment be reverſed, or ſuch oath be found falſe, that the tenant who loſt by the firſt judgment, if he or ſhe be in life, ſhall be reſtored to his or her poſſeſſion of the tenements ſo loſt, with the iſſues in the mean time; and the party purſuing to the arrearages of rent, if any be due, for the ſame tenement. And if ſuch tenant be dead, at the time of the judgment given upon ſuch writs of attaint, orof error, that reſtitution be made to the party purſuing, with the iſſues, after the death of the ſaid tenant, together with the arrearages of rent, if any, to him or her were due, in the life-time of the ſaid tenant.

and may take out a writ of error.

Proviſo.

*Provided always*, That although the tenant who ſo loſt by the firſt judgment, be in life, if the party purſuing will alledge, that the ſame tenant was of covin, and of aſſent of the demandant who recovered, that ſuch tenement ſhould be loſt, that reſtitution of the ſame tenements ſhall be made to the ſame party purſuing, with the iſſues and arrearages as aforeſaid. But in ſuch caſe ſuch tenant ſhall have his or her action by writ of *ſcire facias*, out of the ſame judgment ſo reverſed or given, on ſuch writ of attaint or writ of error, if he or ſhe will traverſe the covin and aſſent aforeſaid, and not otherwiſe.

Children of a tenant by courteſy, not to be barred, &c.

IX. *And be it further enacted by the authority aforeſaid*, That if any man hath aliened, or ſhall alien any tenement which he held, or doth or ſhall hold by the courteſy, his children ſhall not be barred by the deed of their father to demand and recover of the ſeiſin of their mother, although the deed of their father doth or ſhall mention that he and his heirs be bound to warranty. Nor ſhall the iſſue of any ſuch children be barred in ſuch caſe, by any ſuch deed. And likewiſe, and in like manner, the heirs of the wife ſhall not be barred of their action, after the death of their father and mother, by the deed of their father, if they demand, by action, the inheritance of their mother, which their father did alien in the life-time of their mother.

Suit of a widow, not to be delayed.

X. *And be it further enacted by the authority aforeſaid*, That the ſuit of the woman, or her heirs, after the death of her huſband, for lands or tenements aliened by the huſband, ſhall not be delayed by the non-age of the heir or heirs who ought to warrant: But let the purchaſer, who ought not to have been ignorant that he or ſhe bought the right of another, tarry, until the full age of his or her warrantor, to have his or her warranty.

Recital.

*And whereas* divers perſons being ſeiſed of lands, tenements, and hereditaments, as tenants by the courteſy, or otherwiſe, only for term of life or lives, or of eſtates determinable upon life or lives, have permitted or ſuffered other perſons, by agreement or covin between them had, to recover the ſame lands, tenements, and hereditaments, againſt the ſame particular tenants; or have permitted or ſuffered themſelves to be vouched by other perſons, by agreement or covin between them had, in recoveries ſufferedof the ſame lands, tenements, and other hereditaments, to the prejudice of thoſe to whom the reverſion or remainder thereof appertained, or ought to apperrain. *For remedy whereof*,

Recoveries by covin, to be void.

XI. *Be it further enacted by the authority aforeſaid*, That all ſuch recoveries heretofore had or proſecuted, or hereafter to be had or proſecuted, by agreement of the parties, or by covin as aforeſaid, againſt any ſuch particular tenant, of any lands, tenements, or hereditaments, whereof the ſame particular tenant was, is, or ſhall be ſeiſed, of any ſuch particular eſtate as aforeſaid, or againſt any other with voucher over of any ſuch particular tenant, or of any having, or that had right or title to any ſuch particular eſtate or tenancy as aforeſaid, ſhall from henceforth, as againſt ſuch perſon or perſons to whom any reverſion or remainder thereof, by force of any conveyance or deviſe, before that time had or made, did, ſhall, ought, or lawfully may appertain, and againſt their heirs and ſucceſſors, be clearly and utterly void, and of none effect.

*Provided*

*Provided always*, That nothing herein contained ſhall extend, or be prejudicial to any perſon or perſons who hath or have, or hereafter ſhall, by good title, recover any lands, tenements, or hereditaments, without fraud or covin, by reaſon of any former right or title; but that all and every ſuch recovery and recoveries, ſo had or proſecuted, or to be had or proſecuted, upon former rights or titles, ſhall ſtand and be in like force, ſtrength and effect, as if this act had not been made. Proviſo.

*Provided alſo*, That all and every ſuch recovery and recoveries, heretofore had or proſecuted, or hereafter to be had or proſecuted, of any lands, tenements, or hereditaments as aforeſaid, by the aſſent and agreement of any perſon or perſons to whom any reverſion or remainder thereof, then did, ſhall, or ought to appertain, ſo as the ſame aſſent and agreement do appear of record in the court where ſuch recovery is or ſhall be had, ſhall ſtand and be of like force, ſtrength, and effect, againſt ſuch perſon and perſons, who did or ſhall ſo aſſent and agree, their heirs and ſucceſſors, as if this act had not been made. Further proviſe.

*And whereas*, before this time, divers perſons have made leaſes of their manors, lands, tenements, and other hereditaments, ſometimes by deed, and ſometimes without writing, to other perſons, for term of years, and afterwards the ſame leſſors, their heirs or aſſigns, have cauſed or ſuffered recoveries to be had againſt them, upon feigned and untrue titles, by craft or covin to put the ſame farmers from their ſaid terms, and after ſuch recoveries had, the ſaid recoverers, by reaſon of ſuch recoveries and judgments, have entered into the ſaid manors, lands, tenements, and other hereditaments, ſo to farm letten, and thereof have expelled the ſaid farmers, contrary to their ſaid leaſes, covenants, and agreements. And becauſe it hath been doubted whether the ſame farmers might falſify ſuch recoveries or not: *Therefore*, Recital, of leaſes and recoveries.

XII. *Be it further enacted by the authority aforeſaid*, That every ſuch farmer ſhall and may falſify, for his or her term only, ſuch recoveries, as well heretofore had, as hereafter to be had, in ſuch wiſe and form as a tenant of the freehold ſhall and may do by the courſe of the common law; where ſuch tenant of the freehold was neither privy nor party to the ſame recovery. And further, that the ſame farmers, their executors, adminiſtrators, and aſſigns, notwithſtanding ſuch recoveries ſo had, ſhall retain, hold, and enjoy their ſaid terms according to their ſaid leaſes, againſt all ſuch recoverers, their heirs and aſſigns, as they ſhould or might have done againſt the ſaid leſſors, if ſuch recovery had not been had nor ſuffered. And that the ſaid recoverers, their heirs and aſſigns, after ſuch recovery ſo had, ſhall have the like remedy againſt the ſaid farmers, their executors, adminiſtrators, and aſſigns, by avowry or action of debt, for the rents and ſervices reſerved upon the ſame leaſes, being due, after the ſame recoveries; and alſo like actions againſt them for waſte done, after the ſame recoveries ſo had, in like manner and form as the ſaid leſſors ſhould or might have had, if the ſame recoveries had never been had. Farmers may falſify recoveries, and how.

*And likewiſe*, That no execution ſhall hereafter be avoided, or in any wiſe made fruſtrate, by means of any ſuch feigned recovery, but that all perſons having any lands, tenements, or other hereditaments, in execution, or being entitled to have execution of any lands, tenements, or hereditaments, ſhall have, by force of this ſtatute, like means to avoid and falſify the ſame recoveries as is above provided for the leſſees for term of years. No execution to be avoided by a feigned recovery.

## CHAP. XLIX.

AN ACT *for dividing the diſtrict of the manor of Livingſton, in Columbia County, and for annexing the Manor of Fox-Hall to the Town of Kingſton, in Ulſter County.* Paſſed the 12th of March, 1787.

WHEREAS the extent of the diſtrict of the manor of Livingſton, ſubjects its inhabitants to inconveniences. For remedy whereof, Preamble.

Diſtrict of manor of Livingſton divided and named.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That ſo much of the ſaid diſtrict as is contained in the boundaries herein after deſcribed, be erected into a ſeparate townſhip, by the name of the townſhip of Clermont, ; that is to ſay, *Beginning* on the ſouth ſide of the mouth of a certain river, commonly called Roeloff Janſen's Kill; thence along the ſouth ſide of the ſaid river, eaſterly, till it meets with the tract of land heretofore granted to Derick Weſſels, lying on both ſides of the ſaid river; thence along the north and eaſt boundaries of the ſaid tract, till it again meets with the ſaid kill or river; thence along the ſouth ſide of the ſaid river, to the ſouth bend thereof, where it meets with the north line of the county of Dutcheſs; thence along the ſaid line to Hudſon's-River, andalong the ſaid river to the place of beginning; excepting thereout the diſtrict of the Eaſt Camp.

Inhabitants of Clermont to elect town officers, &c.

II. *And be it further enacted by the authority aforeſaid,* That the inhabitants of the ſaid townſhip of Clermont ſhall be, and they are hereby declared to be entitled to elect their own Superviſor, Aſſeſſors, Collectors, and other officers, in like manner as other diſtricts in the county of Columbia are entitled to elect the ſame. And that the annual elections be held at the houſe of Johannes Cooper, in the ſaid townſhip of Clermont, until otherwiſe determined by the greater number of votes of the taxable perſons in the ſaid townſhip, in legal town-meeting aſſembled, or it be otherwiſe provided for by law.

Recital.

*And whereas,* it may happen that the line of the townſhip may interſect the houſes or farms of ſome of the inhabitants of the ſaid townſhip, whereby inconveniences may ariſe in the aſſeſſment of taxes:

Lines interſecting farms, &c. taxes where to be paid.

III. *Be it therefore further enacted by the authority aforeſaid,* That whereſoever the townſhip, or county line, ſhall interſect a farm, the poſſeſſor of ſuch farm ſhall pay all his taxes, in whichever townſhip or diſtrict his dwelling-houſe ſhall be; but if the ſaid line ſhall interſect any dwellinghouſe, then the poſſeſſor of ſuch houſe ſhall be taxed for both houſe and farm in the townſhip of Clermont aforeſaid.

Recital.

*And whereas* the freeholders and inhabitants of the manor of Fox-Hall, in the county of Ulſter, have, by their petition to this Legiſlature, prayed that an act might be paſſed, permitting them to vote for town officers, in conjunction with the freeholders and commonalty of the town of Kingſton, at their annual elections, and ſubjecting them to the aſſeſſment and collection of taxes and rates, in conjunction with the ſaid freeholders and commonalty of the ſaid town of Kingſton:

Manor of Fox-Hall annexed toKingſton

IV. *Be it therefore enacted by the authority aforeſaid,* That the ſaid manor of Fox-Hall in the county aforeſaid, be, and the ſame is hereby annexed to the corporation of the truſtees of the freeholders and commonalty of the town of Kingſton, for the purpoſes of elections, and for the aſſeſſment of taxes, and county and town rates: and the ſaid manor of Fox-Hall, and town of Kingſton, ſhall, for the purpoſes aforeſaid, and for no other, be conſidered as one town, any law, uſage, or cuſtom to the contrary thereof, in any wiſe notwithſtanding.

## CHAP. L.

AN ACT *for giving further remedy, and regulating the Proceſs and Proceedings in Aſſizes, and other Actions.* Paſſed the 12th of March, 1787.

Mode of proceſs on writs of entry.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That if the alienations whereupon writs of entry ought to be granted, happen to be made in ſo many degrees, that by reaſon thereof the writ of entry cannot be made in the uſual form, mentioning the degrees, then the demandants ſhall have a writ to recover their ſeiſin, without making mention of the degrees, into whoſe hands ſoever the tenements ſhall happen to come by ſuch alienations; but writs of entry, without mentioning the degrees, ſhall not be maintained, but in caſes where the writs making mention of the degrees, cannot lie or hold place.

II. *And*

II. *And be it further enacted by the authority aforeſaid,* That if any perſon hath died, or ſhall die, leaving ſeveral perſons his or her heirs, either in the ſame degree, or in different degrees, all ſuch heirs ſhall or may recover in one writ or action, as heirs of the deceaſed perſon.

Several perſons may recover in one writ

III. *And be it further enacted by the authority aforeſaid,* That a writ of deceit ſhall be maintainable and hold place, as well in the caſe of garniſhment touching plea of land, where ſuch garniſhment is given, as in the caſe of ſummons in a plea of land.

Writ of deceit, where maintainable

*And whereas* formerly, if any perſon had loſt his or her lands or tenements by default, he or ſhe had no other recovery but by writ of right, which was not maintainable by any who could not claim of mere right as tenants for term of life, where a reverſion is reſerved. *Therefore,*

Recital.

IV. *Be it further enacted by the authority aforeſaid,* That their default ſhall not be ſo prejudicial, but that they may recover their eſtate by another writ than by writ of right, if they have right, and for recovery of land for term of life, loſt by default, a writ ſhall be made in this form,

How perſons loſing eſtates by default, may recover.

"Command A. that juſtly and without delay, he render to B. one meſſuage, with the appurtenances, in C. which he claims to hold for term of his life, and of which the aforeſaid A. doth deforce him."

Form of the writ of recovery, &c.

V. *And be it further enacted by the authority aforeſaid,* That in caſes of nuiſance, the plaintiff ſhall not go without remedy, becauſe the land is transferred to another. And further, that where the writ is granted againſt him or her who hath levied or ſhall levy the nuiſance, the writ ſhall be made as hath been heretofore uſed, in the following form;

Remedy in caſe of nuiſance.

"A. B. hath complained to us, that C. D. unjuſtly, and without judgment, hath erected (or made, or levied) a houſe (or a wall, ſink, pond, or whatever other thing it may be) to the nuiſance of his freehold."

Form of the writ.

And if ſuch things ſo levied, erected, or made, be aliened from one to another, the writ ſhall be thus;

"A. B. hath complained to us, that C. D. and E. F. have erected."

And further, that all writs of nuſances ſhall from henceforth be made returnable and be determined in the nature of aſſizes, either in the Supreme Court, or at the Circuit Court in the county where ſuch nuſances ſhall happen.

How returnable.

VI. *And be it further enacted by the authority aforeſaid,* That whenſoever in one caſe a writ is found and uſed in the Chancery, and in a like caſe falling under like law, and requiring like remedy, there is none found, a proper writ ſhall be deviſed and made in ſuch caſe. And that ſuitors may not go without remedy, they ſhall have writs according to their caſes.

Writs in Chancery how made.

VII. *And be it further enacted by the authority aforeſaid,* That a writ of *novel diſſeiſin* ſhall lie and be maintainable for *eſtovers* of wood, and for any profit to be taken in woods for a *corody*, for delivery of corn and other victuals and neceſſaries, to be received yearly, in a place certain for toll, paſſage, and ſuch like, to be taken in places certain, and for offices in fee, or for life, as well as for lands and tenements, and for common of paſture, fiſhing, and ſuch like commons, which any perſon hath or ſhall have appendant to freehold, or without freehold, by ſpecial deed, at the leaſt for term of life; and in all the caſes aforeſaid, according to the accuſtomed manner, the writ ſhall expreſs the thing in demand to be a free tenement. And although it has been doubted whether a remedy could be had by this writ, where one feedeth the ſeveral paſture of another, it is hereby declared that a good and ſure remedy is given in that caſe, by the ſaid writ.

In what caſes writs of Novel Diſſeiſin ſhall lie.

*And further*, when any perſon holding for term of years, or in ward, doth alien the ſame in fee, and by ſuch alienation the freehold is transferred to the feoffee, then remedy ſhall or may be by writ of *novel diſſeiſin*, and as well the feoffers as the feoffee ſhall be had for diſſeiſors, ſo that during the life of any of them, the ſaid writ ſhall hold place; and if by the death of the parties the remedy fail by that writ, the remedy may be had by writ of entry.

Remedy for perſons aliening wards, &c.

VIII. *And*

Mode of proceſs againſt perſons named diſſeiſors in writs of Novel Diſſeiſin, who alledge falſe exception.

VIII. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons named diſſeiſors in any writ of aſſize of *novel diſſeiſin*, alledge any falſe exception, whereby the taking of the aſſiſe may be deferred, as that at another time an aſſiſe of the ſame land paſſed between the ſaid parties, or that a writ of a higher nature is depending between the ſame parties of the ſame land, and upon theſe, and like matters, do vouch rolls or records to warranty; then, and in every ſuch caſe, if he or ſhe who ſhall alledge ſuch exception, fail of the warranty that he or ſhe hath vouched, at the day to him or her given, he or ſhe ſhall be adjudged for a diſſeiſor, without taking the aſſiſe, and ſhall reſtore the damages before inquired of, or after to be inquired of, to the double. And if ſuch exception be alledged by a bailiff, the taking of the aſſiſe ſhall not be delayed therefor, nor the judgment upon the reſtitution of the lands and damages. But if the maſter of ſuch Bailiff that was abſent, come afterwards before the ſame Juſtices or Juſtice who took the aſſiſe, and offer to prove by record or rolls, that at another time an aſſiſe paſſed between the ſame parties, of the ſame lands, or that the plaintiff at another time did withdraw his or her ſuit in a like writ, or that a plea is depending by a writ of a higher nature, a writ of *venire facias* ſhall be granted unto him, to cauſe the ſame record to be brought, and when he hath the ſame, and the Juſtices do perceive that the record ſo ſhewed by him, would have been ſo available before the judgment, that the plaintiff, by force of the ſame, ſhould have been barred of his or her action, the Juſtices ſhall immediately cauſe the party who firſt recovered, to be warned to appear, at a certain day, at which the defendant ſhall have again his or her ſeiſin and damages, if he or ſhe before paid any by the firſt judgment given, which ſhall be reſtored to him or her to the double as aforeſaid; and in the ſame manner if the defendant againſt whom any aſſiſe ſhall paſs, in his or her abſence, ſhew any deeds or releaſes upon which the Jury were not examined, nor could be examined, becauſe no mention was made of them in pleading, and by probability might be ignorant of them, the Juſtices, upon the ſight of theſe writings, ſhall cauſe the party who firſt, recovered, to be warned to appear at a certain day, and ſhall cauſe the Jurors of the ſame aſſiſe to come. And if ſuch defendant ſhall verify thoſe writings to be true by the verdict of a Jury, or by inrollment, he or ſhe who purchaſed the aſſiſe contrary to his or her own deed, ſhall reſtore to him or her the damages before recovered as aforeſaid.

Recital.

*And whereas* many perſons do diſſeiſe others of their tenements, and after ſuch diſſeiſin done, make divers alienations and feoffments thereof, whereby the ſaid diſſeiſees, and other demandants, and their heirs, are delayed of their recovery, *Therefore*,

How diſſeiſees to recover againſt diſſeizors.

IX. *Be it further enacted by the authority aforeſaid*, That the ſaid diſſeiſees ſhall from hence forth have their recovery againſt the firſt diſſeiſors, during their lives, if they take the profits at the time of the ſuit commenced as well of the lands and tenements, as of their double damages, without having any regard to ſuch alienations, gifts or feoffments. And further, that this ſhall hold place in every other action, in plea of land, where ſuch feoffments be made by fraud or colluſion, for the demandants to have their recovery againſt ſuch firſt feoffors if they thereof take the profits.

Sheriff not to diſſeiſe of a freehold, but by a ſpecial warrant.

X. *And be it further enacted by the authority aforeſaid*, That no Sheriff or other Officer, by colour of his office, without ſpecial warrant, or commandment, or authority certain, pertaining to his office, diſſeiſe any perſon of his or her freehold, nor of any thing belonging to his or her freehold. And if any do, it ſhall be lawful for the perſon diſſeiſed to ſue at the common law, by writ of *novel diſſeiſin*; and he who ſhall be convicted thereof, ſhall pay double damages to the plaintiff, and be further puniſhed by fine or impriſonment at the diſcretion of the Juſtices.

In what caſe a ſpecial aſſize to be granted.

XI. *And be it further enacted by the authority aforeſaid*, That in caſe any lands or tenements have been, or ſhall be granted by letters patent, without title found by inqueſt or otherwiſe, where the entry of the people of this State is not given by law, they who ſhall be put out or diſſeiſed of their freehold, ſhall or may have a ſpecial aſſize granted by the Chancellor, without any ſuit to the people of this State in that behalf to be made; and if the parties or perſons who have ſuch letters patent, do pray in aid, a writ of *procedendo* ſhall be granted by the Chancellor; and in caſe they who be ſo put out or diſſeiſed, recover againſt the perſons having ſuch patents, they who be ſo put out or diſſeiſed, ſhall recover their treble damages:

*And*

*And whereas* divers perſons do make forceable entries into the lands and tenements of others, and put the poſſeſſors out of the ſame, claiming ſometimes in their own right, where their entry is not lawful, and ſometimes in the right of others, where they have nothing in reverſion, in right nor in *demeſne*, and there is not any affinity or couſinage between them and thoſe in whoſe right they have entered, and ſometimes take away the goods and chattels of the poſſeſſor: *Therefore*

Recital.

XII. *Be it further enacted by the authority aforeſaid*, That if any perſon of what eſtate or condition ſoever he or ſhe may be, hath made or ſhall make any ſuch forcible entry, in his or her own right, or to his or her own uſe, or in the right or to the uſe of any other, by way of maintenance, or take or carry away any goods, after ſuch forcible entry from the poſſeſſor of the freehold, then, and in every ſuch caſe, if the party grieved, or other lawful man for him or her will, make affidavit that the entry was made in ſuch forcible manner, the Chancellor ſhall have power, by his diſcretion, to grant a ſpecial aſſiſe in this caſe, to the party aggrieved, of whatſoever value the tenements may be; and if ſuch diſſeiſor be convicted of ſuch diſſeiſin, made in ſuch forcible manner, he or ſhe ſhall yield to the party grieved his or her double damages, and be further puniſhed by fine or impriſonment according to the diſcretion of the Juſtices. And if ſuch diſſeiſor be convicted by the ſame aſſiſe, that he or ſhe hath taken or carried away the goods or chattels of ſuch diſſeiſees the Juſtices of aſſiſe ſhall have power to hear and determine, as well for the people of this State as for the party, of the goods and chattels ſo carried away, and to award to the party grieved his or her damages. And further that in every ſuch ſpecial aſſiſe one at leaſt of the Juſtices of the Supreme Court be named as one of the Juſtices to take ſuch aſſiſe, and that no writ of *ſuperſedeas* be granted to the contrary of ſuch ſpecial aſſiſes.

Penalty on perſons making forcible entry, &c.

XIII. *And be it further enacted by the authority aforeſaid*, That if in any writ of aſſiſe, the Sheriff of the ſame county is or ſhall be named one of the diſeiſors, and the tenants in the ſame aſſiſe, or any of them, will aver that the ſaid Sheriff is not, nor ever was diſſeiſor nor tenant of the tenements in demand, but was named a diſſeiſor by colluſion, the averment ſhall be received; and if it be found by the ſaid aſſiſe, that the ſaid Sheriff is not nor ever was a diſſeiſor nor tenant of the tenements in demand, but was named diſſeiſor by colluſion, then the Juſtices ſhall cauſe the ſaid writ ſo purchaſed, or to be purchaſed, in form aforeſaid, to be abated and quaſhed; and the plaintiff or plaintiffs ſhall pay double coſts thereupon to be taxed.

Where Sheriff is named a diſſeiſor by colluſion, the writ ſhall be abated.

XIV. *And be it further enacted by the authority aforeſaid*, That an aſſiſe of *novel diſſeiſin* may from henceforth be granted of rent in arrear, due of tenements in divers counties, to be holden in the confine of the counties within which the tenements be; and thereupon the aſſiſe ſhall be taken and tried by Jurors of the ſaid counties, in the ſame manner as ought to be done of a common of paſture in one county, and appendant to tenements in another county; and that as well of diſſeiſins done in times paſt as of diſſeiſins yet to be done; and that writs thereupon at the ſuit of the plaintiff, be made from henceforth in the chancery, in due form without any manner of contradiction; but in all ſuch aſſiſes, one at the leaſt of the Juſtices of the Supreme Court, ſhall be named as one of the Juſtices to take ſuch aſſiſes.

Aſſiſe of Novel Diſſeiſin in what caſes to be granted.

*And whereas* in caſes where dower is or ſhall be demanded, of lands or tenements recovered againſt the huſband by default or *covin*, and when the wife being endowed, loſeth her dower by default, and when tenants by the courtecy or for term of life, muſt demand their land loſt by default; divers actions do concur; and when it is come to that point that the tenant muſt be compelled to ſhew their right, they cannot make anſwer without them to whom the reverſion or remainder of right belongeth: *Therefore*

Recital.

XV. *Be it further enacted by the authority aforeſaid*, That it ſhall be lawful for them to vouch to warranty as if they were tenants, if they have a warranty: And when the warrantor hath warranted plea ſhall paſs between him or her that is ſeized, and the warrantor according to the tenor of the writ that the tenant purchaſed before, and by which he or ſhe recovered by default. And ſo from many actions, they ſhall at length reſort to one judgment which is this; that the demandant ſhall recover his or her demand, or that the tenant ſhall go quit; and if the action of ſuch a tenant who is compelled to ſhew his right, be by writ of right, although the great aſſiſe cannot be joined by the words accuſtomed, yet it ſhall be joined by words convenient; for when the tenant in that he or ſhe ſheweth his or her right, which belongeth to him or her by the

Mode of proceſs in caſes of loſs by default, &c.

writ which he or ſhe before purchaſed inſtead of a demandant, the warrantor may well defend the right of the tenant who is accounted in place of the demandant as aforeſaid, and put himſelf or herſelf upon the great aſſiſe, and pray recognition to be made, whether he or ſhe hath more right to the land in demand, than the party aforeſaid; or otherwiſe the great aſſiſe may be joined thus. Such an one defends the right, and ſo the warrantor may defend the right and acknowledge the ſeaſin of his or her anceſtor, and put himſelf or herſelf upon the great aſſiſe, and pray recognition to be made whether he or ſhe hath more right in the land, as in that whereof he or ſhe enfeoffed ſuch a one, or that ſuch a one releaſed and quit claimed, than the aforeſaid party.

Perſons vouching and not preſent, to have a reaſonable ſummons.

XVI. *And be it further enacted by the authority aforeſaid*, That when any perſon not preſent in Court, ſhall be vouched to warranty in a plea of land or tenements, the party ſo vouched ſhall have reaſonable ſummons according to the diſcretion of the Juſtices, and if the demandant will aver that the perſon vouched is dead, or that there is no ſuch perſon, ſuch averment ſhall be received and tried without delay.

Proceedings on writs of poſſeſſion, &c.

XVII. *And be it further enacted by the authority aforeſaid*, That in writs concerning poſſeſſion, whereby lands or tenements are demanded, which ought to deſcend, remain, revert or fall, by the death of any anceſtor or otherwiſe, if the tenant vouch to warranty, and the demandant counterpleadeth him or her, and will aver by aſſiſe, or by the country, or otherwiſe, as the Court will award, that the tenant, or his or her anceſtor or predeceſſor, whoſe heir he or ſhe is, was the firſt that entered after the death of him or her of whoſe ſeiſin he or ſhe demandeth, the averment of the demandment ſhall be received, if the tenant will abide thereupon; and if not he or ſhe ſhall be further compelled to another anſwer, if he or ſhe have not his or her warrantor preſent, who will warrant him or her freely, and immediately enter into the warranty, and the demandant ſhall have the like exceptions againſt the warrantor, if he or ſhe will vouch further, as he or ſhe had before againſt the firſt tenant; and in all manner of writs of entry, which make mention of degrees, none ſhall vouch out of the line. And further, that as well in the writs aforeſaid, as in writs of right, if the tenant vouch to warranty, and the demandant will counterplead him or her, and be ready to aver by the country, that he or ſhe, who is ſo vouched to warranty, nor his or her anceſtors or predeceſſors, had never ſeiſin of the land or tenement demanded, nor fee nor ſervice by the hand of his or her tenant, or his or her anceſtors or predeceſſors, ſince the time of him or her on whoſe ſeiſin the demandant declareth, until the time that the writ was purchaſed, and the plea moved, whereby he, ſhe or they might have enfeoffed the tenant, or his or her anceſtor or predeceſſors, then whether the party vouched be preſent or abſent, the averment of the demandant ſhall be received, if the tenant will abide thereupon, if not the tenant ſhall be further compelled to another anſwer, and the demandant ſhall have his or her exceptions againſt the warrantor, as he or ſhe had before againſt the firſt tenant. And further, if the tenant hath a deed that compriſeth warranty of another man who is bound in none of the caſes beforementioned, to the warranty of an older degree, his or her recovery by a writ of warranty of charters out of the chancery, ſhall be ſaved to him or her, at what time ſoever he or ſhe will purchaſe it, but the plea ſhall not be delayed therefor.

When and how a warrantor of land ſhall loſe.

XVIII. *And be it further enacted by the authority aforeſaid*, That when any perſon ſhall demand lands or tenements againſt another, and the party impleaded vouch-eth to warranty, and the warrantor denieth his or her warranty, and it be found that the vouchee is bound to warranty by the law and cuſtom of this State, then in like manner as the tenant ſhould loſe the land or tenement in demand, in caſe where he vouched, and the vouchee could diſcharge himſelf of the warranty, in the ſame manner ſhall the warrantor loſe, in caſe where he or ſhe denieth his or her warranty, and it be tried againſt him or her, that he or ſhe is bound to warranty. And further, that in all caſes where an inqueſt ſhall be depending between the tenant and the warrantor, and the demandant will require a writ to cauſe the Jury to come it ſhall be granted.

When and how perſons diſſeiſed may recover double damages.

XIX. *And be it further enacted by the authority aforeſaid*, That if any perſon be diſſeiſed of his or her freehold, and ſhall recover ſeiſin by aſſiſe of *novel diſſeiſin*, or by confeſſion of them that did the diſſeiſin, and after the plaintiff hath had ſeiſin delivered by the Sheriff, if the ſaid diſſeiſors do again diſſeiſe the ſame plaintiff of the ſame free-

hold

hold, and thereof be convicted, the plaintiff ſhall recover double damages, and the rediſſeiſors ſhall be alſo puniſhed by fine and impriſonment, and ſhall be forthwith taken and committed, and kept in goal until they ſhall have paid ſuch damages and fine, and be thence delivered by due courſe of law. And the manner of proceeding in ſuch caſe ſhall be as follows; when the plaintiff ſhall come to the Chancery, he or ſhe ſhall have a writ directed to the Sheriff, in which muſt be contained the plaint of diſſeiſin upon the diſſeiſin, and therefore it ſhall be commanded to the Sheriff, that taking with him the Coroner of the county, or one of them, if there be more than one in the ſame county, and two or more Juſtices of the Peace in the ſame county, he go in his proper perſon to the tenement or paſture whereof the plaint had been made, and before them by the firſt Jurors and other neighbours and lawful men, if the firſt recovery was by verdict, if not, then by neighbours and lawful men, he diligently thereof make inquiſition, and if they find the plaintiff diſſeiſed again as aforeſaid, then the Sheriff ſhall do according to the proviſion aforeſaid; but if it be found otherwiſe, then the plaintiff ſhall be amerced, and the others ſhall go quit. But no Sheriff ſhall proceed in any ſuch plaint without a ſpecial writ. And in the ſame manner it ſhall be done to them who ſhall recover their ſeiſin of any lands or tenements by verdict, default, reddition or otherwiſe, in any real action, in any Court of Record, if they be afterwards diſſeiſed by the firſt deforceors, againſt whom they ſhall have recovered.

Mode of proceſs thereon.

XX. *And be it further enacted by the authority aforeſaid*, That if any perſon hath demiſed, or ſhall demiſe his or her lands, to any other perſon, and to his or her heirs, rendering a certain annual rent for the ſame, and he or ſhe who holdeth the land ſo charged, letteth it lie freſh, ſo that the party can find no diſtreſs there by the ſpace of two years, to compel the farmer to render, or to do as is contained in the writing or leaſe: then the two years being paſſed, the leſſor or grantor, or his heirs or aſſigns ſhall have an action to demand the land in *demeſne* by a writ out of the Chancery in this form:

Writ to iſſue from Chancery for relief of certain perſons.

Command A that juſtly and without delay, he render to B, one meſſuage, with the appurtenances, in C, which the ſame B demiſed to the aforeſaid A, rendering therefore yearly to the ſame B (ſuch a certain rent) and which to him ought to revert, becauſe the aforeſaid A, in paying the aforeſaid rent, hath ceaſed, by two years, as he ſaith. And if he or ſhe againſt whom the land is demanded, come before judgment, and pay the arrearages, and the damages and coſts, and find ſurety, ſuch as the Court ſhall think ſufficient, to pay the rent from thenceforth, as is contained in the writing or leaſe, he or ſhe ſhall keep the land; but if he or ſhe neglect until it be recovered by judgment, he or ſhe ſhall be barred for ever; and, in like manner, if any withhold from any perſon, of whom he or ſhe holds, his or her due and accuſtomed ſervice, by two years, the perſon to whom the ſame is or ſhall be due, ſhall have an action to demand the lands in *demeſne*, by a writ in this form: "Command A that juſtly and without delay, he render to B (ſuch a tenement) which the aforeſaid A holds of him by ſuch certain ſervice, and which to the aforeſaid B, ought to revert, becauſe the aforeſaid A, in doing the ſervice aforeſaid, hath ceaſed by two years, as he ſaith." And further, that as well in the caſe of rent, as in the caſes of ſervices, writs of entry ſhall be made as aforeſaid for the heirs of the demandant, and againſt the heirs of the tenant, and againſt them to whom ſuch land ſhall be aliened.

Form of ſaid writ.

XXI. *And be it further enacted by the authority aforeſaid*, That from henceforth view ſhall not be granted to the tenant, but in caſe where a view of the land is neceſſary; and that if one loſe land by default, and he or ſhe who loſeth ſhall purchaſe a writ to demand the ſame land, and in caſe where one by an exception dilatory abateth a writ after the view of the land, as by *non tenure*, miſnaming of the town or ſuch like, and the demandant purchaſeth another writ, in theſe caſes the view ſhall not be granted if the party had view in the firſt writs: And in a writ of dower where the dower in demand is of land that the huſband aliened to the tenant, or his or her anceſtors, where the tenant ought not to be ignorant what land the huſband did alien to him or her, or to his or her anceſtor, though the huſband did not die ſeiſed, yet the view ſhall not be granted to the tenant. And in a writ of entry, that is abated becauſe the demandant miſnamed the entry, if the demandant purchaſeth another writ of entry, if the tenant had view in the firſt writ, he ſhall not have it in the ſecond. And in all writs where lands

Where a view of the land demanded, ſhall be granted, & where not.

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are or ſhall be demanded by reaſon of a demiſe made by the demandant, or his or her anceſtor to the tenant, and not to his or her anceſtor, as that which the demandant or his or her anceſtor, being within age, not of found mind or in priſon, and ſuch like, demiſed to the tenant, view ſhall not be granted; but if the demiſe was to the anceſtor of the tenant, view ſhall be granted, as hath been done before.

What pleas ſhall be received in certain writs.

XXII. *And be it further enacted by the authority aforeſaid,* That in all writs of couſinage *aile and beſaile,* if the tenant will plead that the Plaintiff is not the next heir of the anceſtor, by whoſe death he or ſhe demandeth the land, ſuch plea ſhall be received, and the matter inquired of, and the court ſhall proceed to judgment, according to the verdict thereupon to be given.

How writs may be abated.

XXIII. *And be it further enacted by the authority aforeſaid,* That no writ ſhall be abated by the exception of *nontenure of parcel,* but for the quantity of the *nontenure* ſo alledged.

In what caſe remedy may be had againſt heirs, &c.

XXIV. *And be it further enacted by the authority aforeſaid,* That if any perſon ſhall purchaſe a writ of *novel diſſeiſin,* and he or ſhe againſt whom the writ is brought as principal diſſeiſor, dieth before the aſſiſe be paſſed, then the Plaintiff ſhall have his or her writ of entry, upon diſſeiſin, againſt the heir or heirs of the diſſeiſor or diſſeiſors, of what age ſoever ſuch heir or heirs may be; and likewiſe the heir or heirs of the diſſeiſee, ſhall have his, her or their writ or writs of entry, againſt the diſſeiſors, or their heirs of what age ſoever they be, if the diſſeiſee die before he hath purchaſed his writ, ſo that for the non age of the heirs of the one part or other, the writ ſhall not be be abated nor the plea delayed.

Heirs in non age, how relieved.

XXV. *And be it further enacted by the authority aforeſaid,* That if a child within age be holden from his or her inheritance, after the death of his or her father, mother, brother, ſiſter, couſin, grand-father or great grand-father, whereby ſuch infant is driven to his or her writ, and his or her adverſary cometh into the court, and for anſwer alledgeth a feoffment, or pleadeth ſome other thing by which the court would formerly award the age, and defer the inqueſt until the full age of the infant, from henceforth, in every ſuch caſe, the inqueſt ſhall not be deferred until the full age of the infant, but ſhall paſs as if he or ſhe was of full age.

How tenants in aſſiſe of Novel Diſſeiſin may appear.

XXVI. *And be it further enacted by the authority aforeſaid,* That all tenants in aſſiſe of *novel diſſeiſin* may either appear and plead in perſon, or make and appear and plead by their attornies, or plead by bailiffs at their pleaſure.

Reſpecting panels of aſſize.

XXVII. *And be it further enacted by the authority aforeſaid,* That the pannels of the aſſiſes ſhall in all caſes be arrayed, and a copy thereof delivered by the Sheriff or his deputy to the plaintiffs, tenants and defendants, if they demand the ſame, at leaſt ſix days before the circuit court, or ſeſſion of the juſtices at which the ſame ſhall be returnable, upon pain that every Sheriff or other officer neglecting his duty herein ſhall forfeit, for every offence, to the party grieved, the ſum of twenty pounds, to be recovered with coſts of ſuit in any court of record, by action or debt, bill, plaint or information.

Plaintiff may ſever and abridge his plaint, whereunto a bar is pleaded.

XXVIII. *And be it further enacted by the authority aforeſaid,* That the plaintiff in every aſſiſe may from henceforth at his pleaſure ſever and abridge his or her plaint, of a moiety or any other part or parts whereunto any bar is or ſhall be pleaded, in ſuch like manner as he or ſhe might do in caſe the pleas in bar had been made, and divided to any certainty or number of acres in the plaint; and that the plaint for the reſidue of the part or parts of the lands, not abridged, ſhall be and ſtand good and effectual in the law.

After plea moved by writ, tenant to make no waſte.

XXIX. *And be it further enacted by the authority aforeſaid,* That from the time any plea ſhall be moved by writ, the tenant ſhall not make any waſte or *eſtrepement* of land in demand, pending the ſuit; and if he or ſhe do, the court wherein the plea depends ſhall cauſe the land in demand to be kept at the ſuit of the demandant.

Writs of ſummons when to have teſt and return.

XXX. *And be it further enacted by the authority aforeſaid,* That all writs of ſummons, and attachments, and other proceſs in pleas of lands, ſhall from henceforth have full fifteen days at the leaſt between the days of the teſt and the days of the return thereof. And further that in all writs of dower, after iſſue joined

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it ſhall not be needful or requiſite to have above fifteen days between the *teſt* and return of the *venire facias*, or any other proceſs to be ſued out for the trial of the ſaid iſſue, but that the writ of *venire facias* and other proceſs after iſſue joined and until judgment be given, having only fifteen days between the teſte and the return thereof ſhall be good and effectual. And alſo that all writs of ſummons to the warranty, and all other proceſs in any real action, being teſted the laſt day or any other day in any term, and returnable the firſt day, or any other day in the next ſucceeding term, ſhall be good and effectual.

And for avoiding ſecret ſummons in real actions without convenient notice to the tenants of the forehold,

Avoiding ſecret ſummons in real actions.

XXXI. *Be it further enacted by the authority aforeſaid*, That after every ſummons upon the lands in any real action, and fourteen days at the leaſt before the day of the return thereof, the Sheriff to whom ſuch ſummons ſhall be directed, ſhall make or cauſe proclamation of the ſame ſummons to be made, at or near the moſt uſual door of the Church of the town or place where the land whereupon the ſummons was made doth lie, upon a ſunday immediately after divine ſervice and ſermon, if any there be, and if there be more than one Church in ſuch town, then ſuch proclamation ſhall be made in form aforeſaid at or near to the moſt uſual door of the Church neareſt to the ſaid lands; and if there be no Church in ſuch town, then ſuch proclamation ſhall be made in form aforeſaid at or near to the moſt uſual door of the Church in the ſame county neareſt to the ſaid land, and ſuch proclamation ſo made as aforeſaid, ſhall be returned together with the names of the ſummoners, and if ſuch ſimmons ſhall not be proclaimed and returned as aforeſaid, then no *grand cape* to be awarded, but an *alias* or *pluries* ſummons as the cauſe ſhall require, until a ſummons and proclamation ſhall be duly made, and returned as aforeſaid.

And for avoiding delays in all manner of writs and attachments,

In writs and attachments.

XXXII. *And be it further enacted by the authority aforeſaid*, That if the tenant or defendant after the firſt attachment returned, make default, the great diſtreſs ſhall be immediately awarded, and the tenant or defendant ſhall be diſtrained from time to time, until he or ſhe do appear, or comply with the purpoſe of ſuch writ. And if the Sheriff do not make a ſufficient return to any ſuch writ, at the day of the return thereof, he ſhall be amerced.

And whereas the proceſs by *diſtringas* as heretofore uſed is dilatory and expenſive, for remedy whereof.

In proceſs by Diſtringas.

XXXIII. *Be it further enacted by the authority aforeſaid*, That the court out of which the writ proceeds may order the iſſues levied from time to time to be ſold, and the monies ariſing thereby to be applied to pay ſuch coſts to the plaintiff as the court ſhall think juſt, under all the circumſtances to order, and the ſurplus to be retained until the defendant or tenant ſhall have appeared, or other purpoſe of the writ be anſwered, and when the purpoſe of the writ is anſwered, that then the ſaid iſſues ſhall be returned, or if ſold, what ſhall remain of the money ariſing by ſuch ſale, ſhall be repaid to the party diſtrained upon.

And becauſe ſuch things as be recorded before the Chancellor, and the judges and juſtices who have record, and be inrolled in their rolls, proceſs of plea ought not to be made by ſummons, attachment, view of land and other ſolemnities of the court, as hath been uſed to be done of bargains and covenants made out of court.

Therefore,

Proceedings in caſes of things found inrolled, &c.

XXXIV. *Be it therefore enacted by the authority aforeſaid*, That from henceforth thoſe things which are found inrolled before thoſe who have record, or contained in fines, whether they be recoveries or judgments had, or contracts, covenants, obligations, ſervices or cuſtoms acknowledged, or other thing whatſoever inrolled; wherein the court without offence of the law and cuſtom, may execute their authority, ſhall have ſuch force that the party at any time within the year after the ſame are or ſhall be had levied or acknowledged ſhall have a writ of execution of the ſame, and when the fine, judgment, there covery or recognizance be levied had or made of a further time paſſed, the Sheriff ſhall be commanded that he make known to the party of whom it is complained, that he or ſhe be before the juſtices

or court at a certain day, to ſhew if he or ſhe have any thing to ſay why ſuch matters inrolled or contained in the fine ought not to have execution; and if he or ſhe do not come at the day, or do come and can ſay nothing why execution ought not not to be done, the Sheriff ſhall be commanded to cauſe the thing inrolled or contained in the fine to be executed.

In what caſe the plaintiff ſhall not be nonſuited.

XXXV. *And be it further enacted by the authority aforeſaid,* That where a verdict hath been or ſhall be found in aſſiſe, or in any other action whatſoever, and the parties have been or ſhall be adjourned upon difficulty in law upon the matter ſo found, the plaintiff ſhall not be non ſuited if the verdict paſs againſt him or her.

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## CHAP. LI.

AN ACT *for the Relief of Perſons holding or poſſeſſing State Agents Certificates.* Paſſed the 13th of March, 1787.

Treaſurer to receive State Agent's certificates on loan till May next.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That it ſhall and may be lawful for the Treaſurer of this State to receive on loan, until the firſt day of May next, certificates iſſued by Udny Hay, Eſquire, late Agent of this State, or any of his Aſſiſtant Agents; any thing in the twenty-fifth ſection of the act, entitled, "An act for the payment of certain ſums of money, and for other purpoſes therein mentioned," paſſed the 5th of May, 1786, to the contrary hereof notwithſtanding.

Proviſo.

*Provided always,* That the perſon offering any ſuch certificates to the Treaſurer, ſhall, upon oath or otherwiſe, prove to the ſatisfaction of the ſaid Treaſurer, that the ſame certificates were in the hands of a *bona fide* proprietor, on the firſt day of September, one thouſand ſeven hundred and eighty-ſix.

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## CHAP. LII.

AN ACT *for the Relief of Garret Rapalje.* Paſſed the 13th of March, 1787.

Preamble.

WHEREAS it hath been repreſented that Garret Rapalie an inſolvent debtor, now confined for debt in the Goal of the city of New-York is indebted to the people of this State, and the ſaid Garret Rapalie having prayed for relief in the premiſſes. Therefore,

Relief granted to Garret Rapalie

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Treaſurer of this State ſhall be, and he is hereby authorized and required to liquidate the debt due from the ſaid Garret Rapalie to the people of this State, on ſuch principles and proofs as to him ſhall appear proper and juſt, and having ſo liquidated the ſame, and aſcertained the amount of the debt ſo due, it ſhall and may be lawful to and for the ſaid Treaſurer on the behalf of the people of this State to join in a petition with any other creditor or creditors of the ſaid Garret Rapalie, and to ſtate the ſum which ſhall be ſo found due as aforeſaid, to be due to the people of this State in order to enable the ſaid Garret Rapalie to take the benefit of the act entitled, An act for the relief of inſolvent debtors, paſſed 13th April, 1786.

Proviſo.

*Provided nevertheleſs,* That the ſaid Treaſurer ſhall on oath declare, that the debt ſo by him ſtated as due to the People of this State, is, to the beſt of his knowledge and belief, true and juſt, and that he doth not know or believe that any ſecurity of any kind whatſoever, hath been taken for the ſame.

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## CHAP. LIII.

AN ACT *to amend an act, entitled, "An act for making Proceſs in Courts of Equity effectual againſt Mortgagers who abſcond, and cannot be ſerved therewith, or who refuſe to appear."* Paſſed the 13th of March, 1787.

Preamble.

WHEREAS in and by the act, entitled, "An act for making proceſs in Courts of Equity effectual againſt Mortgagers who abſcond, and cannot be ſerved therewith, or who refuſe to appear," paſſed the 7th March, 1785, it is directed, that before any decree ſhall be made on any bill therein mentioned, the court ſhall cauſe the mortgaged premiſes to be appraiſed on oath by two indifferent perſons to be appointed by the court, that the value of the ſame may be known by the court as nearly as may be, before the decree be made. And whereas it is found by experience, that in moſt caſes the cauſing the mortgaged premiſes to be appraiſed in manner aforeſaid, before any decree ſhall be made, is attended with delay and conſiderable expence, and no valuable purpoſe anſwered thereby. *Therefore,*

Chancellor empowered in caſes of mortgage.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful for the Chancellor, to decree and order a ſale of any ſuch mortgaged premiſes in purſuance of the ſaid act without any ſuch appraiſement as aforeſaid except in ſuch caſes where he ſhall judge the ſame to be neceſſary, any thing in the aforeſaid act to the contrary notwithſtanding.

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## CHAP. LIV.

AN ACT *to amend an act, entitled, "An act for Relief againſt abſconding and abſent Debtors."* Paſſed the 13th March, 1787.

Preamble.

WHEREAS doubts may ariſe upon the ſaid act, whether deeds executed by the Truſtees, and proceedings carried on againſt fraudulent, abſconding, or concealed debtors, after their deceaſe, are valid in the law.

Deeds executed by truſtees of fraudulent debtor, to be valid.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That in all caſes as well where any ſuch debtor or debtors ſhall have died, as where any ſuch debtor or debtors ſhall die, after the time fixed for ſuch debtor or debtors appearance, by the order or notification of the Judge before whom the proceedings were had, ſhall have expired, the proceedings ſhall not be diſcontinued by the death of ſuch debtor or debtors, but may be carried on to a final concluſion, as if the ſaid debtor or debtors had remained in full life, and all ſuch proceedings, and all deeds executed or to be executed in purſuance thereof, are hereby declared as legal as if executed whilſt the ſaid debtor or debtors were living.

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## CHAP. LV.

AN ACT *for raiſing a further Sum of Money to complete the Court-Houſe and Goal in Dutcheſs County.* Paſſed the 14th of March, 1787.

Preamble.

WHEREAS the Superviſors of the county of Dutcheſs have, by their petition, requeſted the Legiſlature to enable them by law to raiſe a further ſum of money to complete the court-houſe and gaol in the ſaid county. *Therefore,*

Superviſors of Dutcheſs county impowered to raiſe money, &c.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Superviſors of the ſeveral precincts in the ſaid county, for the time being, ſhall be, and they are hereby authoriſed and required to direct to be raiſed and levied on the freeholders and inhabitants

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inhabitants of the ſaid county, a further ſum of one thouſand three hundred pounds, with an additional ſum of eight-pence in the pound for collecting the ſame, which ſaid ſums ſhall be raiſed, levied, and collected in the like manner as the other neceſſary and contingent charges of the county are levied and collected.

Time, place, and purpoſe of Supervi-ſors meeting.

II. *And be it further enacted the authority aforeſaid*, That the Superviſors of the ſaid county of Dutcheſs, ſhall meet for the purpoſe of dividing the ſaid ſum to be raiſed and levied by virtue of this act, at the dwelling houſe of Stephen Hendrickſon, in Poughkeepſie, in the ſaid county, on the firſt Tueſday in May next; and it is hereby made the duty of the Clerk of the Superviſors of the ſaid county, to notify the reſpective Superviſors of ſuch meeting.

Monies how to be diſpoſed of.

III. *And be it further enacted by the authority aforeſaid*, That the monies directed to be raiſed by virtue of this act, ſhall be collected and paid into the treaſury of the ſaid county of Dutcheſs, on or before the firſt Tueſday of September next; and the Treaſurer of the ſaid county is hereby required and directed to pay to the order of the Superviſors of the ſaid county, ſo much of the ſaid monies as they ſhall require for completing the court-houſe and gaol aforeſaid, and the reſidue, if any there be, ſhall be retained by him to be diſpoſed of and applied for the general benefit of the county, in ſuch manner as the Superviſors of the ſaid county ſhall direct.

Treaſurer's fees.

IV. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Treaſurer of the ſaid county of Dutcheſs, to retain in his own hands the ſum of three pence in the pound for his trouble in receiving and paying out the monies directed to be raiſed by this act.

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## CHAP. LVI.

AN ACT *for making Lands and tenements liable to be ſold by Executions for Debt, and for the more eaſy Diſcovery of Judgments, and the better Security and Relief of Purchaſers and Creditors.* Paſſed the 19th of March, 1787.

Lands of debtors how to be diſpoſed of.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That all and ſingular the lands, tenements, and real eſtate of every debtor ſhall be, and hereby are made liable to be ſold upon executions, to be iſſued by virtue of any judgment heretofore had, or hereafter to be had, in any court of record, againſt ſuch debtor, for the payment and ſatisfaction of the debt or damages ſo recovered, or to be recovered.

Judge's duty on ſigning judgment.

II. *And be it further enacted by the authority aforeſaid*, That every Judge, or officer of any court of record, who ſhall ſign any judgment, ſhall, at the time of ſigning the ſame, without any fee for doing the ſame, ſet down the day and year of his ſigning the ſame judgment, upon the margin of the roll or record where the ſame judgment ſhall be entered; and that the Clerks of the ſaid reſpective courts ſhall mark upon the back of every roll or judgment filed in their reſpective offices, the time of filing the ſame. And further, that no judgment ſhall affect any lands or tenements as to purchaſers or mortgagees, or have any preference againſt heirs, executors, or adminiſtrators, in their adminiſtration of their anceſtors, teſtators, or inteſtates eſtates, but from the time of the actual filing of the roll or record of the ſame judgment in their reſpective offices, after the ſame ſhall have been ſigned as aforeſaid.

Clerk's duty.

29. Car. 2. c. 3

Clerks annually to make a docket of all judgments.

29 —

III. *And be it further enacted by the authority aforeſaid*, That the ſeveral and reſpective Clerks of the ſeveral and reſpective courts of record in this State, ſhall before the laſt day of the term or court next after the firſt day of July, in the preſent year of our Lord one thouſaud ſeven hundred and eighty-ſeven, and ſo in every term or at every court, or within ſix days thereafter, make or cauſe to be made and put into an alphabetical docket, by the name or names of the party or parties, againſt whom any judgment ſhall be entered, a particular of all judgments by confeſſion *non ſum informatus* or *nihil dicit* and upon verdicts, writs of enquiry, demurrer and every other judgment, for debt or damages, entered in the ſaid reſpective courts, of the term, or at the court preceding; which

ſhall contain the name and names of the plaintiff and plaintiffs, and the name and names of the defendant and defendants, his, her, or their place or places of abode, and title, trade or profeſſion, if any ſuch be in the record of ſuch judgment; and the debt, damages and coſts recovered thereby; and the ſaid reſpective dockets ſhall be fairly put into and kept in books, in the reſpective offices of the ſaid reſpective Clerks, to be ſearched and viewed by all perſons, at reaſonable times, upon pain that every Clerk of the ſaid reſpective courts, ſhall reſpectively, for every term or court in which he ſhall omit or neglect to do his duty in the premiſes, forfeit the ſum of one hundred pounds, the one moiety to the party aggrieved, and the other moiety to him or them who ſhall ſue for the ſame; to be recovered, with coſts of ſuit, in any court of record, by action of debt, bill, plaint, or information.

Judgments not ſo entered, ſhall not affect purchaſers.

*And further*, That no judgment, not docketted and entered in the books as aforeſaid, ſhall affect any lands or tenements, as to purchaſers or mortgagees, or have any preference againſt heirs, executors, or adminiſtrators, in their adminiſtration of their anceſtors, teſtators, or inteſtates eſtates.

405 W2 Mb. c 20. -

Date of the enrollment of recognizances to be ſet in the margin, &c.

IV. *And be it further enacted by the authority aforeſaid*, That the day of the month and year of the enrollment of recognizances, ſhall hereafter be ſet down in the margin of the roll where the ſame recognizances are enrolled; and that no recognizance ſhall bind any lands, tenements, or hereditaments, in the hands of any purchaſer or mortgagee, *bona fide*, and for valuable conſideration, but from the time of ſuch enrollment.

29 Car 2. c 3

Writ of execution when to bind property.

V. *And be it further enacted by the authority aforeſaid*, That no writ of execution ſhall from henceforth bind the property of the goods of any perſon, againſt whom ſuch writ of execution ſhall be ſued forth, but from the time that ſuch writ ſhall be delivered to the Sheriff, Under Sheriff, Coroner or other officer to be executed, And for the better manifeſtation of the ſaid time, the Sheriff, Under Sheriff, Coroners and other officers, their Deputies and Agents, ſhall upon the receipt of any ſuch writ, without fee for doing the ſame, indorſe upon the back thereof, the day of the month and year, when he or they received the ſame.

M. M.

Manner of proceeding after judgment given.

VI. *And be it further enacted by the authority aforeſaid*, That where any debt hath been, or ſhall be recovered or acknowledged, or damages adjudged or awarded, in any court of record, it ſhall from henceforth be lawful for him, her or them, who ſhall ſue for ſuch debt or damages, to have an execution againſt the body of ſuch debtor, or a writ commanding the Sheriff or other proper officer, to cauſe ſuch debt and damages to be made of the goods and chattels, of ſuch debtor, or perſon chargeable with ſuch debt, in the uſual form, or of the goods and chattels, lands and tenements of the debtor or perſon chargeable with ſuch debt, in the form hereinafter mentioned, but no execution ſhall be iſſued againſt the body or the proper goods and chattels, lands and tenements of any Heir, Deviſee, Executor or Adminiſtrator, unleſs he, ſhe or they, ſhall have made their eſtate liable to the ſame debt, by falſe pleading or otherwiſe. *And further*, That every perſon who hath been, or ſhall hereafter be taken or arreſted, by virtue of any ſuch writ of execution, againſt his or her body, for any ſuch debt or damages, by any Sheriff or other officer, to whom any ſuch writ hath been or ſhall be directed, and every perſon who hath been or ſhall be committed to the cuſtody of any Sheriff or other officer, in execution for any ſuch debt or damages, ſhall be ſafely kept in priſon, in cloſe and ſecure cuſtody, without bail or mainprize, living at his or her own coſts, until he or ſhe ſhall ſatisfy and pay ſuch debt and damages; and if any ſuch Sheriff or other officer, ſhall permit any ſuch perſon ſo taken, arreſted or committed, or hereafter to be taken, arreſted or committed, to go out of priſon, or be at large, by bail, mainprize or otherwiſe, without the aſſent and agreement of the plaintiff, ſuch Sheriff or other officer, ſhall thereby become anſwerable to the plaintiff for the debt and damages for which ſuch perſon was taken, arreſted or committed, and the plaintiff may recover the ſame with coſts, by action of debt, bill or plaint, againſt ſuch Sheriff or other officer.

Perſons taken by execution, to be detained, &c.

Sheriffs duty on exeeutions againſt lands, tenements, tertenants, &c.

VII. *And be it further enacted by the authority aforeſaid,* That in every writ of execution, hereafter to be iſſued againſt lands and tenements, the Sheriff or other officer to whom ſuch writ ſhall be directed, ſhall be commanded that of the goods and chattels of the perſon or perſons againſt whom ſuch execution iſſues, in his county or bailiwick, he cauſe to be made, the debt, damages and coſts or ſum of money, in ſuch execution ſpecified; and if ſufficient goods and chattels of ſuch perſon or perſons cannot be found in his bailiwick or county, that then he cauſe the ſaid debt, damages, and coſts or ſum of money, to be made of the lands and tenements, whereof ſuch perſon or perſons were or was ſeiſed, on the day when the ſame lands became liable to ſuch debt, damages, or ſum of money, ſpecifying the day particularly, or at any time afterwards, in whoſe hands ſoever the ſame may then be. But when any ſuch execution ſhall be iſſued, againſt any perſon or perſons, as Tertenants, or as Heirs or Deviſees of any perſon deceaſed, unleſs they ſhall have made their eſtate liable by falſe pleading or otherwiſe, ſuch writ ſhall only command the Sheriff or other officer, to whom the ſame ſhall be directed, that of the lands and tenements, wherof the anceſtor, teſtator or perſon deceaſed was ſeiſed on the day the ſame lands became liable as aforeſaid, or at any time afterwards, or at the time of his or her death, as the caſe may require, he cauſe to be made, the debt, damages and coſts, or ſum of money in the ſame writ ſpecified. And further that where lands or tenements, in the hands of ſeveral perſons are or ſhall be liable to ſatisfy any judgment or debt of record, and the whole, or more than a due proportion ſhall be paid by, or levied upon the lands of any one or more of them, the perſon or perſons ſo aggrieved, his her or their executors or adminiſtrators, may have a writ out of Chancery, ſetting forth his, her or their grievance, directed to the Juſtices of the Supreme Court, commanding them to hear the complaint, and to do juſtice to the parties; and the juſtices of the Supreme Court ſhall thereupon cauſe the party or parties, againſt whom ſuch complaint ſhall be made, to be warned to be before them, at a certain day, to ſhew, if he ſhe or they have any thing to ſay, why his her or their lands ſhould not be charged, with a due proportion of the monies ſo paid or levied; and if he, ſhe, or they do not come at the day, or do come and can ſay nothing, why his, her or their lands ſhould not be charged with a due proportion of the monies ſo paid, or levied, then the Sheriff of each county, in which ſuch lands and tenements ſo chargeable, are or ſhall be ſituated, ſhall be commanded that by the oath of twelve good and lawful men of his county or bailiwick, he diligently inquire, what was the true value of the lands and tenements in the hands of each of the parties reſpectively, in his county or bailiwick ſo chargeable, at the time they became chargeable as aforeſaid; and that he ſend the inquiſition which he ſhall take thereof, before the ſame Juſtices, at a certain day, under his ſeal, and the ſeals of thoſe by whoſe oath he ſhall take ſuch inquiſition: And when the value of the whole lands and tenements ſo chargeable, ſhall be found, the Juſtices ſhall apportion the money ſo paid or levied, together with the plaintiff's damages and coſts of ſuit, among the ſeveral holders of the ſaid lands and tenements ſo chargeable, according to equity and juſtice; and ſhall cauſe ſo much as each perſon ought to pay, to be levied of the ſaid lands and tenements, ſo held by him or her, and to be paid to the plaintiff or plaintiffs. And further if any purchaſer, of any lands or tenements upon any execution heretofore iſſued, or hereafter to be iſſued, or his or her heirs or aſſigns, ſhall be evicted on account of any irregularity in the proceedings or want of title in the perſon or perſons, againſt whom ſuch executiou iſſued, or by reaſon of any prior incumbrance, then and in every ſuch caſe, the perſon or perſons ſo evicted, his, her, their executors or adminiſtrators, may have a writ out of the Chancery, ſetting forth his, her, or their grievance, directed to the Juſtices of the Supreme Court, commanding them to hear the complaint, and to do juſtice to the parties, and the Juſtices of the Supreme Court ſhall thereupon cauſe as well the party or parties at whoſe ſuit or for whoſe benefit the ſame lands and tenements were ſold, as the party againſt whom the execution iſſued or their reſpective heirs, deviſees, executors or adminiſtrators, to be warned to be before them at a certain day, to ſhew if they or either of them have any thing to ſay, why the plaintiff ſhould not be reſtored to the monies paid for the ſaid lands and tenements; and if they do

not

not come at the day, or do come and can ſay nothing why the plaintiff ſhould not have reſtitution of the ſaid monies, the plaintiff ſhall have judgment and execution for the ſame, together with his coſts of ſuit, againſt him, her or them, who ought to repay the ſame, and the party in whoſe favour ſuch former judgment was had, or his heirs, deviſees, executors, or adminiſtrators, who may be charged by ſuch judgment of reſtitution, ſhall thereupon have ſuch further judgment and execution as juſtice ſhall require.

Priſoners how to be dealt with.

VIII. *And be it further enacted by the authority aforeſaid,* That all priſoners either upon contempt or *meſne proceſs*, or in execution, who are or ſhall be committed to any priſon, ſhall be actually detained within ſuch priſon, until they ſhall be from thence diſcharged by due courſe of law. And if at any time the keeper or keepers of any priſon, ſhall permit or ſuffer any priſoner committed to his or their cuſtody, either upon contempt or *meſne proceſs*, or in execution, to go or to be at large, out of his or their reſpective priſons, except by virtue of ſome writ of *habeas corpus*, or rule of court (which rule of court ſhall not be granted, but on motion made, or petition read in open court) every ſuch going or being out of the ſaid priſon, ſhall be adjudged and deemed, and is hereby declared to be an eſcape.

Penalty on Sheriffs ſuffering a priſoner to eſcape, &c.

IX. *And be it further enacted by the authority aforeſaid,* That if any Sheriff, or keeper of any priſon, ſhall take any ſum of money, reward, or gratuity whatſoever, or any ſecurity for the ſame, to procure, aſſiſt, connive at, or permit any eſcape of any priſoner in his or their cuſtody, and ſhall be thereof lawfully convicted, every ſuch Sheriff or Keeper ſhall, for every ſuch offence, forfeit the ſum of five hundred pounds, and his ſaid office, and be forever after incapable of executing any ſuch office.

Retaking not to be given as evidence in actions of eſcape.

X. *And be it further enacted by the auhority aforeſaid,* That no retaking on freſh purſuit ſhall be given in evidence on trial of any iſſue in any action of eſcape, againſt any Sheriff, or keeper of any priſon, unleſs the ſame ſhall be ſpecially pleaded; nor ſhall any ſpecial plea be taken, received, or allowed, unleſs oath be made in writing by ſuch Sheriff, or Keeper of any priſon, againſt whom ſuch action ſhall be brought, and filed with ſuch plea, that the priſoner for whoſe eſcape ſuch action is brought, did, without his conſent, privity, or knowledge, make ſuch eſcape; and if ſuch affidavit ſhall at any time afterwards appear to be falſe, and ſuch Sheriff or Keeper of any priſon ſhall be convicted thereof, by due courſe of law, he ſhall forfeit the ſum of five hundred pounds.

In what caſe perſons may renew executions, &c.

XI. *And be it further enacted by the authority aforeſaid,* That the party or parties at whoſe ſuit, or to whom any perſon doth or ſhall ſtand charged in execution, for any debt or damages recovered, his, her, or their executors or adminiſtrators may, after the death of the ſaid perſon ſo charged and dying in execution, lawfully ſue forth and have new execution againſt the goods and chattels, lands and tenements, or any of them, of the perſon ſo deceaſed, in ſuch manner and form, to all intents and purpoſes, as he, ſhe, or they, or any of them, might have had by the laws and ſtatutes of this State, if ſuch perſon ſo deceaſed had never been taken or charged in execution; but no perſon or perſons, his, her, or their executors or adminiſtrators, at whoſe ſuit or ſuits any ſuch party ſhall be in execution, and die in execution, ſhall have or take any new execution againſt any the lands, tenements, or hereditaments of ſuch party ſo dying in execution, which ſhall at any time after the judgment or judgments againſt ſuch party ſo dying, and by reaſon whereof ſuch party was taken or charged in execution, be by him or her ſold *bona fide* for the payment of any of his or her creditors, and the money which ſhall be paid for the lands ſo ſold, either paid or ſecured to be paid, to any of his or her creditors, with their privity and conſent, in diſcharge of his, her, or their due debts, or of ſome part thereof, nor againſt any lands, tenements, or hereditaments, of any ſuch perſon ſo dying in execution which ſhall have been ſold by reaſon of any other judgment againſt the ſaid party ſo dying in execution.

Remedy for creditor, on a debtor's eſcape.

XII. *And be it further enacted by the authority aforeſaid,* That if any perſon who is or ſhall be committed in execution to any priſon, ſhall eſcape from thence, by any ways or means howſoever, the creditor or creditors at whoſe ſuit ſuch priſoner was charged in execution, at the time of his or her eſcape, ſhall or may retake ſuch priſoner by any new *Capias* or *Capias ad ſatisfaciendum*, or ſue forth any other kind of execution on the judgment, as if the body of ſuch priſoner had never been taken in execution.

XIII. *And*

Sheriffs duty on condemnation and confinement of priſoners.

XIII. *And be it further enacted by the authority aforeſaid,* That if any perſon hath been or ſhall be condemned in any court of record in this State, and hath been or ſhall be by virtue of any ſuch condemnation committed to priſon, there to remain until he or ſhe ſhall make ſatisfaction to the party to whom he or ſhe is or ſhall be condemned, and any writ or writs ſhall be granted, commanding the Sheriff or keeper of the priſon, where ſuch priſoner is holden, to have the body of ſuch priſoner, with the cauſe of his or her impriſonment, in the Chancery, or in any other court, or before the Chancellor, or before any Judge or Juſtice, and it be returned upon the ſaid writ or writs, that ſuch priſoner is condemned by judgment given againſt him or her, then, and in every ſuch caſe ſuch priſoner ſhall be immediately remanded, where he or ſhe ſhall remain continually in priſon according to the law and cuſtom of this State, without being let to go by bail or mainprize, againſt the will of the party to whom ſuch priſoner is or ſhall be condemned, until ſatisfaction be made to him or her for the ſum adjudged.

## CHAP. LVII.

AN ACT *for granting and ſecuring to John Fitch, the ſole right and advantage of making and employing for a limited time the Steam boat by him lately invented.*" Paſſed the 19th March, 1787.

Preamble.

WHEREAS John Fitch of Bucks county in the State of Pennſylvania hath repreſented to the Legiſlature of this State, that he hath conſtructed an eaſy and expeditious method of impelling boats through the water by the force of Steam, praying that an act may paſs, granting to him, his executors, adminiſtrators and aſſigns, the ſole and excluſive right of making, employing and navigating all boats impelled by the force of ſteam or fire, within the juriſdiction of this State for a limited time. Wherefore, in order to promote and encourage ſo uſeful an improvement and diſcovery, and as a reward for his ingenuity, application and diligence:

Patent granted to John Fitch, for the conſtruction of ſteam boats.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the ſaid John Fitch his heirs executors, adminiſtrators and aſſigns, ſhall be, and they are hereby veſted with the ſole and excluſive right and priviledge of conſtructing, making, uſing, employing, and navigating all and every ſpecies or kind of boats or water craft, which may be urged or impelled through the water, by the force of fire or ſteam, in all creeks, rivers, bays, and waters whatſoever, within the territory and juriſdiction of this State, for and during the full end and term of fourteen years from and after the preſent ſeſſion of the legiſlature.

Penalty on perſons encroaching on ſaid right.

II. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons whomſoever, without being properly authoriſed by him the ſaid John Fitch, his heirs executors or adminiſtrators, ſhall make uſe, employ or navigate any boat or water craft, which ſhall or may be urged, impelled, forced or driven through the water, by the force power, or agency of fire or ſteam as aforeſaid, within the territory or juriſdiction of this State, every perſon or perſons, ſo offending againſt the tenor, true intent and meaning of this act, for each and every ſuch offence, ſhall forfeit and pay unto the ſaid John Fitch, his heirs, executors or adminiſtrators, or to ſuch other perſon, or perſons as he the ſaid John Fitch his heirs or aſſigns, ſhall authoriſe and impower for that purpoſe the ſum of one hundred pounds, to be recovered by action of debt in any court of record within this State, wherein the ſame may be cognizable, with coſts of ſuit, and ſhall alſo forfeit to him the ſaid John Fitch, his heirs or aſſigns, all ſuch boats or water craft, together with the ſteam engine and all the appurtenances thereof, to be recovered in manner aforeſaid, with coſts of ſuit. Provided always.

III. *And*

III. *And be it further enacted by the authority aforeſaid,* That neither this act, nor any clauſe, matter, or thing therein contained, ſhall be taken deemed or conſtrued to prohibit or prevent any perſon or perſons from making uſing employing or navigating within this State, any kind or boats or water craft, heretofore invented or hereafter to be invented, on any other principles conſtruction or model, which may be urged impelled or driven along through the water, by any other power force agency or means except fire or ſteam.

Reſtrictions of this act.

## CHAP. LVIII.

AN ACT *for the better extinguiſhing of Fires in the City of New-York.*" Paſſed the 19th March 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That it ſhall and may be lawful to and for the Mayor, Aldermen and Commonalty of the city of New-York, in common Council convened, or the major part of them, and they are hereby required to nominate and appoint a ſufficient number of ſtrong able diſcreet honeſt and ſober men willing to accept, not exceeding three hundred in number, of the inhabitants being freeholders or free men of the ſaid city to have the care management working and uſing the fire Engines and the other tools and inſtruments now provided, or hereafter to be provided, for extinguiſhing of fires within the ſaid city; which perſons ſo to be nominated and appointed as aforeſaid ſhall be called *the Firemen of the City of New-York,* and who with the Engineers of the ſame city, are hereby required and enjoined to be ready at all times, as well by night as by day, to manage work and uſe the ſame fire engines, and other the tools and inſtruments aforeſaid ſo provided, and to be provided, for extinguiſhing of fires in the ſame city.

Firemen to be appointed, and their duty.

And in order that the firemen ſo to be nominated and appointed as aforeſaid may be dligent and vigilent in the execution of their duty.

II. *Be it further enacted by the authority aforeſaid,* That the perſons ſo to be nominated and appointed firemen as aforeſaid, and each and every of them, from time to time during their continuance in that office, and no longer, ſhall be and hereby are declared, to be freed, exempted and priviledged, from ſerving in the office of Conſtable, and from being impanelled or returned upon any juries or inqueſts, and of and from Militia duty within the ſaid city, except in caſes of invaſion, or other imminent danger, and that the names of all firemen, to be nominated and appointed by virtue of this act, ſhall from time to time, be regiſtered and entered with the clerk of the peace of the ſaid city; and his certificate ſhall be ſufficient evidence in all courts and caſes of ſuch privilege and exemption. And further that it ſhall and may be lawful to and for the Mayor, Aldermen and Commonalty of the ſaid city, in common Council convened, or the major part of them, to remove and diſplace all or any of the firemen now appointed, or ſo as aforeſaid to be nominated and appointed, by virtue of this act, when and as often as they ſhall think fit, and others in the room or places, of ſuch as they ſhall ſo remove or diſplace, to nominate and appoint, and ſo from time to time as they the ſaid Mayor, Aldermen and Commonalty of the ſaid city, in common Council convened or the major part of them, for the time being ſhall think proper.

Firemen exempted from ſundry ſervices.

Common Council may remove firemen

III. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the Mayor, Aldermen and Commonalty of the ſaid city, in common council convened, or the major part of them, to make eſtabliſh and ordain, ſuch rules orders, ordinances and regulations, in reſpect of the government conduct duty, and behaviour of the perſons to be by them from time to time nominated and appointed firemen, in virtue of this act, in the working managing and frequent exerciſing trying and uſing of the ſame fire engines, tools and other inſtruments, and to impoſe and eſtabliſh ſuch reaſonable fines penalties and forfeitures

And eſtabliſh rules for their government, &c.

upon them or any of them, for default or neglect of the duties and ſervices thereby to be enjoined or required from them, as the Mayor, Aldermen and Commonalty of the ſame city, in common council convened, or the major part of them, ſhall from time to time think proper.

Sheriffs, &c. to aſſiſt in extinguiſhing fires,

IV. *And be it further enacted by the authority aforeſaid*, That upon the breaking out of any fire within the ſaid city, the Sheriff, Deputy Sheriffs, Conſtables and Marſhals (upon notice thereof) ſhall immediately repair to the place where ſuch fire ſhall happen, with their rods ſtaves and other badges of authority, and be aiding and aſſiſting, as well in the extinguiſhing of the ſaid fires, and cauſing the perſons attending the ſame to work, as in preventing any goods or houſehold furniture, from being ſtolen at ſuch fires, and ſhall ſeize and apprehend all ill diſpoſed perſons, whom they find ſtealing or pilfering: And that the officers aforeſaid, ſhall alſo give their utmoſt aſſiſtance to the inhabitants in removing and ſecuring their ſaid goods and furniture; and in the execution of the duties required from them by this act, ſhall in all reſpects be obedient to the orders and directions of the Mayor, Recorder and Aldermen of the ſaid city, or ſuch of them as ſhall from time to time, be preſent at ſuch fires.

And in removing goods.

Citizens to furniſh themſelves with fire-buckets,

V. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Mayor, Aldermen and Commonalty of the ſaid city, in common council convened, by a bye-law or bye-laws, ordinance or ordinances by them for that purpoſe to be made and ordained, to direct and require the inhabitants or owners of houſes and other buildings in the ſaid city, to furniſh and provide themſelves with ſuch and ſo many fire buckets, to be ready in their reſpective houſes and other buildings for the purpoſes of extinguiſhing fires, which may happen in the ſaid city and to impoſe and eſtabliſh ſuch reaſonable fines, penalties and forfeitures for every neglect, default or diſobedience thereof, as the ſaid Mayor, Aldermen and Commonalty of the ſaid city in common council convened ſhall think proper.

Recital.

And whereas the inhabitants of the ſaid city have, on all occaſions of fire, not only chearfully afforded their ready aſſiſtance in extinguiſhing the ſame, but have alſo ſent out their leather fire buckets for that purpoſe, many of which have from time to time been burnt, deſtroyed or loſt, for which no recompence or allowance hath been provided, which may prove a great diſcouragement to owners of buckets in furniſhing them on the like occaſion for the future. *For remedy whereof*,

Perſons loſing fire-buckets at fires, to receive pay therefor

VI. *Be it further enacted by the authority aforeſaid*, That in caſe any perſon or perſons ſhall hereafter looſe any bucket or buckets, at any fire which may happen in the ſaid city, and ſhall make proof before the Mayor, Recorder or any one of the Aldermen of the ſaid city for the time being, of the value of ſuch bucket or buckets, and that the ſame was or were actually loſt or deſtroyed in that ſervice; that then and in ſuch caſe the Mayor, Aldermen and Commonalty of the ſaid city in common council convened, ſhall by warrant under the hand of the Mayor or Recorder, preſiding at ſuch common council, directed to the Treaſurer or Chamberlain of the ſaid city for the being, order the value of ſuch bucket or buckets to be paid to ſuch perſon or perſons ſo making proof of the loſs thereof, out of any monies remaining in his hands for the payment of the contingent expences ariſing in the ſaid city. And if any perſon or perſons ſhall at any time thereafter be convicted of having taken a falſe oath, touching the premiſes, he ſhe or they ſo offending ſhall incur the penalties of wilful and corrupt perjury. *Provided always*,

Such buckets to be the property of the Common Council.

VII. *And be it further enacted by the authority aforeſaid*, That if any ſuch bucket or buckets ſo proved to be loſt as aforeſaid, ſhall afterwards happen to be found, the property thereof ſhall thenceforward be in the Mayor, Aldermen, and Commonalty of the city of New-York, unleſs the owner or owners thereof will take back the ſame, and return the money allowed and paid to him or them for the loſs thereof.

CHAP.

## CHAP. LIX.

AN ACT *for the more effectual preſervation of the public Wells and Pumps in the City of New-York.* Paſſed the 19th March, 1787.

Preamble.

WHEREAS it is found by experience that the keeping the public wells and pumps in the city of New-York in conſtant repair, hath contributed to the ſafety of the ſaid city, againſt accidents by fire. *Therefore,*

Overſeers of public pumps and wells to be appointed annually.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful to and for the Mayor, Recorder, and Aldermen, or any five of them, whereof the Mayor or Recorder to be one, and they are hereby directed and required, on the firſt Tueſday in May next, and on the firſt Tueſday in May in every year thereafter, to nominate and appoint one or more fit perſon or perſons for each and every of the wards of the ſaid city, being inhabitants of the ſaid city, and actually reſident in ſuch reſpective wards, to be Overſeers of the wells and pumps in ſuch reſpective wards, for the year then next enſuing; all which perſons ſo to be appointed as aforeſaid, ſhall have the care and charge of all and every the public wells and pumps which now are, or hereafter ſhall be ſunk or made in the ward for which he or they ſhall be ſo ſeverally appointed Overſeers as aforeſaid; of which appointment ſo to be made, the ſaid Mayor or Recorder, with three or more Aldermen, ſhall, within three days thereafter, ſend notice in writing, to each and every of the ſaid perſons ſo by them to be appointed Overſeers as aforeſaid. And if any public well or pump ſhall ſtand in a ſtreet where two wards do join, then the Aldermen of the two wards ſo joining, or if they diſagree, the Mayor or Recorder with them ſhall direct and appoint which of the Overſeers ſhall take the care and charge of ſuch well or pump. And if any public well or pump ſhall ſtand in a ſtreet where three wards do join, that then the Aldermen of the ſaid wards ſo joining, or the major part of them, ſhall direct and appoint which of the ſaid Overſeers ſhall take the care and charge of ſuch well or pump.

Overſeers duty.

II. *And be it further enacted by the authority aforeſaid,* That each and every perſon ſo to be appointed Overſeer as aforeſaid, ſhall, within eight days next after his being ſo appointed, and notice thereof to him given as aforeſaid, cauſe all and every the wells and pumps whereof he is or ſhall be appointed Overſeer as aforeſaid, to be viewed, examined, cleanſed, and put in good order and repair, and ſhall ſo keep and maintain them, from time to time, as long as he ſhall continue Overſeer thereof; and ſhall alſo, from time to time, cauſe new pumps to be put into ſuch wells as the Aldermen and Aſſiſtant of the ward ſhall judge neceſſary. And in caſe any one or more of the Overſeers to be appointed by virtue of this act, ſhall remove out of the ſaid city, or ſhall die before the expiration of one year next after his being appointed, or being appointed, ſhall refuſe to act; that then, and in either of the ſaid caſes, it ſhall and may be lawful to and for the ſaid Mayor, Recorder, and Aldermen of the ſaid city, or any five of them, whereof the Mayor or Recorder to be one, by a majority of voices, to appoint another or others in his or their room and ſtead, and ſo as often as ſuch caſe ſhall happen.

In caſe of death or removal others to be appointed.

Overſeers to keep true accounts of expenditures.

*And further,* That all and every the Overſeers to be appointed by the ſaid Mayor, Recorder, and Aldermen, by virtue of this act, ſhall keep juſt, fair, and exact accounts of all and every ſum and ſums of money which they or any of them ſhall pay and expend, in, about, and towards the cleanſing, maintaining, and keeping in good repair the wells and pumps in his or their charge.

Penalty for neglect of duty.

III. *And be it further enacted by the authority aforeſaid,* That in caſe any or either of the Overſeers ſo to be appointed by virtue of this act, ſhall neglect or refuſe to accept the office, or having accepted thereof, ſhall neglect or refuſe to do his duty therein as is required by this act, every ſuch perſon ſhall, for every ſuch refuſal, neglect, or delay, forfeit the ſum of five pounds lawful money of this State, to be recovered by action of debt, with coſts of ſuit, in any court within this State, having cognizance thereof, by any perſon or perſons who ſhall ſue and proſecute the ſame to effect; one half of which forfeiture, when recovered, ſhall be paid to the Treaſurer or Chamberlain of the ſaid city for the time being, and applied towards repairing ſuch public wells and pumps, in

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ſame manner as the other monies to be raiſed for that purpoſe are directed to be appropriated, and the other half to the perſon who ſhall ſue and proſecute for the ſame to effect as aforeſaid.

Overſeers to render accounts every three months.

IV. *And be it further enacted by the authority aforeſaid,* That the overſeers of the public wells and pumps in each of the wards of the ſaid city, ſhall once in every three months, render to the Mayor, Aldermen and Commonalty of the ſaid city of New-York, in common council convened, a juſt and true account upon oath, of all and every ſum and ſums of money by him or them reſpectively paid and expended, in and about the cleanſing amending and repairing the wells and pumps aforeſaid, together with the vouchers or recepts for the ſame (to be by them inſpected examined and filed,) and the ſaid common council of the city of New-York, ſhall thereupon forthwith iſſue their warrant, to be ſigned by the Mayor or Recorder preſiding at ſuch common council, directed to the Treaſurer or Chamberlain of the ſaid city for the time being, and requiring him to pay to ſuch overſeer ſo producing vouchers and making oath to his account, the full amount thereof, out of any monies remaining in his hands for ſuch purpoſes.

How to be paid.

Recital.

And whereas divers diſorderly perſons, have frequently been guilty of cutting well ropes, and breaking the handles of pumps and doing other miſchiefs to both, for prevention whereof for the future.

Penalty on perſons maliciouſly damaging pumps, &c.

V. *Be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall artfully or maliciouſly cut any of the public well ropes, or break or injure the handles of, or do any other hurt or damage to any of the ſaid wells or pumps, and ſhall thereof be convicted, before the Mayor, Recorder or any one of the Aldermen of the ſaid city, either by the confeſſion of the party or parties ſo offending, or by the oath of one or more credible witneſs or witneſſes, he ſhe or they, ſhall, for every ſuch offence, forfeit the ſum of forty ſhillings, to be recovered with coſts of ſuit, and levied by warrant under the hand and ſeal of ſuch Mayor, Recorder, or Aldermen, before whom ſuch offender or offenders ſhall be convicted; one half of which forfeiture to be paid to the Treaſurer or Chamberlain of the ſame city for the time being, to be applied as aforeſaid, and the other half to the perſon or perſons who ſhall proſecute for the ſame to effect; and upon refuſal of payment of ſuch forfeiture or forfeitures, and want of ſufficient diſtreſs whereon the ſame can be levied, then the ſaid Mayor, Recorder, or Aldermen, before whom ſuch conviction ſhall take place, is hereby empowered and required, by warrant under his hand and ſeal, to commit every ſuch offender to the Bridewell, or houſe of employment of the ſaid city, there to remain without bail or mainprize, for the ſpace of one month, or until ſuch forfeiture and coſt ſhall be paid. And if ſuch offence ſhall be committed by any apprentice, ſervant, or ſlave, ſuch forfeiture ſhall be paid by his or her maſter, miſtreſs or owner; or in default thereof, ſuch apprentice, ſervant, or ſlave, ſhall be committed to the Bridewell, or houſe of employment of the ſaid city, in manner aforeſaid.

## CHAP. LX.

AN ACT *to veſt the real Eſtate of Hendrick Remſen, deceaſed, in Truſtees, for the Purpoſes therein mentioned.* Paſſed the 21ſt of March, 1787.

Preamble.

WHEREAS Hendrick Remſen, late of the city of New-York, merchant, deceaſed, did, in his life-time, make and ſubſcribe a certain inſtrument of writing, to the following effect, to wit;

Reciting the will of Henry Remſen.

"My eſtate to be divided after my deceaſe, Joris 1,500 Henry 1,000 and the remainder to be equally divided among my four children, *to wit*, George Remſen, Henry Remſen, Dorothy Remſen, and Phebe Remſen." And whereas all the ſaid children of the ſaid Hendrick Remſen, being then of full age, did enter into articles of agreement with each other under their ſeveral and reſpective hands and ſeals, to obſerve and abide by the intentions of the ſaid Hendrick ſo as aforeſaid expreſſed

in

in the aforeſaid inſtrument of writing as fully to all intents and purpoſes as if the ſame had been his laſt will and teſtament executed in due form of law. And whereas Dorothy Remſen daughter of the ſaid Hendrick, ſubſequent to the execution of the articles of agreement aforeſaid, did make her laſt will and teſtament in due form of law, and did therein and thereby give and deviſe her whole eſtate to the legatees and deviſees therein named, as follows, Unto her godſon and nephew, Henry Remſen, ſon of her brother Henry Remſen, the ſum of five hundred pounds current money of New-York. Item to Joris Remſen, ſon of Henry Remſen, the like ſum of five hundred pounds current money aforeſaid. Item to Jeronimus A. Remſen, ſon of Aris Remſen, twenty-five pounds for a ſuit of clothes and a mourning ring, and the reſidue of her eſtate, to her mother Catalina Remſen and her brothers, Joris and Henry Remſen, and to her ſiſter Phebe Remſen, and to their reſpective heirs and aſſigns, equally to be divided ſhare and ſhare alike.

Caſe of Dorothy Remſen's heirs.

*And whereas* the ſaid Phebe Remſen, one of the daughters of the ſaid Hendrick Remſen, ſubſequent to her entering into the articles of agreement aforeſaid, did marry with Jeronimus Remſen, by whom ſhe had iſſue two children, which ſaid children are ſtill minors, and the ſaid Phebe hath ſince departed this life.

Caſe of Phebe Remſen.

*And whereas* all the parties who are intereſted in the eſtate of the ſaid Hendrick Remſen, are deſirous that the diſpoſition of the eſtate, of the ſaid Hendrick ſo as aforeſaid, manifeſted by him in the aforeſaid inſtrument, ſhould be carried into execution, which cannot be done without the aid and aſſiſtance of the Legiſlature.

Agreement of the parties to a diviſion,

*And whereas* the ſaid George Remſen, Henry Remſen and Jeronimus Remſen, by their petition have prayed, that the real eſtate of the ſaid Hendrick Remſen, deceaſed, may by an act of the Legiſlature, be veſted in George Remſen, Henry Remſen, Jeronimus, Remſen and Henry Remſen, junior, and their heirs in truſt, to ſell the ſame, and to divide the monies ariſing from the ſaid real eſtate amongſt the ſeveral perſons intereſted therein, and their requeſt appearing to the Legiſlature to be reaſonable.

And requeſt truſtees to be appointed for that purpoſe.

*Therefore,*

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all and ſingular the real eſtate, lands, tenements and hereditaments, within this State, whereof the ſaid Hendrick Remſen died ſeized, ſhall, at and immediately after the paſſing this act, be, and hereby are veſted in the ſaid George Remſen, Henry Remſen, Jeronimus Remſen, and Henry Remſen, junior, and their heirs upon truſt, that they the ſaid George Remſen, Henry Remſen, Jerominus Remſen and Henry Remſen, junior, and the ſurvivors and ſurvivor of them, and the heirs of ſuch ſurvivor, ſhall and do with all convenient ſpeed, ſell and diſpoſe of the ſaid real eſtate, lands, tenements, and hereditaments with the appurtenances, at public vendue or otherwiſe, in ſuch parts and parcels as they ſhall find neceſſary, for the moſt money and beſt price and prices that can be reaſonably got for the ſame; and ſhall and do diſpoſe of and apply the money to ariſe by ſuch ſales, and the mean profits by them to be received until ſuch ſale or ſales ſhall be made in manner following. That is to ſay,

Truſtees veſted with the diſpoſal of ſaid eſtate.

Firſt, for paying and reimburſing themſelves for their trouble, and all ſuch charges and expences as they ſhall ſuſtain or be put to by reaſon of the truſt ſo repoſed in them; and in the next place for paying and diſcharging the debts and funeral charges of the ſaid Hendrick Remſen, deceaſed, if any there be unpaid, the ſeveral pecuniary legacies in the aforeſaid inſtrument of writing of the ſaid Hendrick, ſpecified and mentioned, that is to ſay, the ſum of fifteen hundred pounds to the ſaid George Remſen, and one thouſand pounds to the ſaid Henry Remſen, and ſhall and do pay one fourth part of the reſidue of the monies ariſing from the ſale of the ſaid real eſtate to the ſaid George Remſen, one other fourth part thereof to the ſaid Henry Remſen, one other fourth part thereof to the Executors, named in the laſt will and teſtament of the ſaid Dorothy Remſen, deceaſed, for the uſe and benefit of the Legatees and Deviſees therein named, in the manner by her directed in her ſaid laſt will and teſtament, and the remaining fourth part thereof to the children of the ſaid Phebe Remſen, equally to be divided between them, or to the Guardians of the ſaid children lawfully to be appointed, for their uſe.

Avails how to be applied.

Truſtees authority

II. *And be it further enacted the authority aforeſaid,* That the ſaid Truſtees ſhall by virtue of this act, be deemed and adjudged in the actual poſſeſſion of all and ſingular, the premiſes ſo veſted in them as aforeſaid; and that all and every ſale, grant, conveyance and aſſurance to be made in virtue of this act, by the ſaid Truſtees, or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, of all and every or any part of the premiſes ſo veſted in them, ſhall be good and effectual to all and every purchaſer and purchaſers, his, her and their heirs and aſſigns, according to the purport and effect thereof.

and duty.

And the ſaid purchaſers, their heirs and aſſigns, ſhall and may by virtue thereof, and of this act, have, hold and enjoy the ſame premiſes againſt the heirs, deviſees, legatees, executors and adminiſtrators of the ſaid Hendrick Remſen, deceaſed, and their and every of their heirs, executors, adminiſtrators and aſſigns, ſaving to all other perſons, bodies politic and corporate, their and every of their heirs ſucceſſors and aſſigns, all ſuch right, title, eſtate, intereſt, claim and demand, as they or any or either of them had, or ſhould or ought to have, of, in, to, or out of any of the ſaid real eſtate ſo ſold as aforeſaid, if this act had not been made.

Truſtees receipts to be valid in all caſes.

III. *And be it further enacted by the authority aforeſaid,* That the receipt or receipts of the ſaid truſtees, or the ſurvivors or ſurvivor of them, and the heirs of ſuch ſurvivors, under his her or their hands or hand reſpectively, ſhall be a ſufficient diſcharge to the purchaſer or purchaſers of the premiſes ſo ſold, or any part thereof, and to their reſpective heirs, executors, adminiſtrators, and aſſigns, for ſo much of the purchaſe money for which ſuch receipt or receipts ſhall be given, and ſuch purchaſer or purchaſers, his, her, or their heirs, executors, adminiſtrators or aſſigns, ſhall not be anſwerable for any loſs, miſapplication or non application of the ſaid purchaſe money or any part thereof.

Not to be accountable for the acts of each other.

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid truſtees ſhall not, nor ſhall either of them, or the heirs, executors, or adminiſtrators of either of them, be anſwerable or accountable for any money to be received by virtue of or under the truſts hereby repoſed in them, any otherwiſe than each perſon for ſuch ſum and ſums of money, as he or they ſhall reſpectively actually receive, or give a receipt or receipts for; and that no one of them ſhall be anſwerable or accountable for the acts, receipts, neglects or defaults of any other of them.

Truſtees to give bonds, &c.

V. *And be it further enacted by the authority aforeſaid,* That the ſaid George Remſen, Henry Remſen, Jeronimus Remſen and Henry Remſen, junior, ſhall ſeverally before they enter upon the execution of the truſt hereby repoſed in them, give bond with ſuch ſecurity and in ſuch manner as the Chancellor ſhall direct for the faithful performance of the ſaid truſts.

## CHAP. LXI.

AN ACT *for the better regulating the Public Roads in the city and county of New-York.* Paſſed the 21ſt of March, 1787.

Common Council appointed Commiſſioners of Highways in New-York.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the Mayor, Aldermen, and Commonalty of the city of New-York, in Common Council convened, and their ſucceſſors, ſhall be and hereby are appointed Commiſſioners to regulate and keep in repair the preſent public roads or highways; and to lay out, regulate and keep in repair ſuch other public roads or highways, as ſhall hereafter be laid out in the ſaid city and county.

Commiſſioners empowered to lay out or widen highways.

II. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioners ſo as aforeſaid by this act appointed, ſhall be, and hereby are, fully authoriſed and impowered to widen or alter all public roads and highways, already laid out in the ſaid city and county, to ſuch convenient breadth, not exceeding four rods, nor leſs than two rods, as the ſaid Commiſſioners ſhall judge fit, to make them paſſable for horſes and carriages.

And

nd alſo to lay out and make ſuch other public roads or highways as they ſhall think eceſſary or convenient for the ſaid city and county, in manner aforeſaid, if the owner or wners of the ſaid lands through which ſuch new roads are to run, or his, her, or their gent or legal repreſentative will on reaſonable recompence, conſent to the ſame. And , in widening or altering any ſuch public road or highway now in being, or if in lay- ng out any public road or highway hereafter, or in widening or altering the ſame, the aid Commiſſioners ſhall take or require for ſuch purpoſes the lands of any perſon or erſons, they ſhall give notice thereof to the owners or proprietors of ſuch land, or to his, er, or their agent, or legal repreſentative.

Mode of ſatisfaction to perſons diſcommoded.

And to the end that reaſonable ſatisfaction may be made for all ſuch lands as ſhall be aken and employed for the uſe aforeſaid, the ſaid Commiſſioners ſhall and may treat and gree with the owners and perſons intereſted therein, or his, her, or their agent, or legal epreſentative; and if any ſuch owners or proprietors ſhall refuſe to treat in manner foreſaid, then, and in ſuch caſe, it ſhall and may be lawful to and for the Mayor, or Recorder, and any two or more Aldermen, by virtue of this act, to iſſue a precept direct- ed to the Sheriff of the ſaid city and county of New-York, commanding him to impan- nel and return, and he is hereby required to impannel and return a Jury to appear before the Mayor's Court, at the then next meeting thereof, not leſs than three weeks from the date of ſuch precept, to enquire of and aſſeſs the damages and recompence due to the owner or owners of ſuch land; and at the ſame time to ſummon the owner or owners of ſuch land, or his, her, or their agent, or legal repreſentative, by notice to be left at his or her laſt moſt uſual place of abode, to appear before ſuch Mayor's Court, on the day, and at the place of the return of ſuch precept: which Jury, being firſt duly ſworn for that purpoſe, and having viewed the premiſes, if neceſſary, ſhall inquire of and aſſeſs ſuch damages and recompence as they ſhall, under all the circumſtances, judge fit to be awarded to the owner or owners of ſuch land, according to their ſeveral and reſpective intereſts and eſtates, of and in ſuch land, or any part thereof, for their reſpective intereſts and eſtates in the ſame; and the verdict of ſuch Jury, and the judgment of the ſaid Mayor's Court thereupon, and the payment of the ſum and ſums of money ſo awarded and adjudged to the owner or owners thereof, or tender and refuſal thereof, ſhall be binding, to all intents and purpoſes, againſt the ſaid owners, and their reſpective heirs, executors, adminiſtrators, and aſſigns, claiming any intereſt or title in or to the ſame land, and ſhall be a full authority to the ſaid Commiſſioners to cauſe the ſaid land to be converted to and uſed for the purpoſes aforeſaid, any thing herein, or in any other law contained to the contrary hereof in any wiſe notwithſtanding.

Proviſo.

*Provided always, And be it further enacted by the authority aforeſaid,* That nothing in this act before contained, ſhall be deemed to authoriſe or require compenſation to be made to any perſon or perſons, for any lands which he, ſhe, or they ſhall have obtained by encroaching on ſuch public road or highway.

Further proviſo.

*And provided further*, That the main road or highway leading to Kingſbridge, ſhall not be of leſs breadth than it is at preſent, nor any part thereof leſs than four rods wide.

Commiſſioners empowered to build bridges, &c.

III. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the ſaid Commiſſioners to cauſe to be made, built, and erected, ſuch and ſo many cauſeways and bridges, and at ſuch places as they ſhall think neceſſary, and to cauſe ditches from ſuch public roads or highways to be made and cut thro' any perſons land, where they ſhall judge proper, for conveying the water from, and keeping the ſame roads or highways dry and in good order, and from time to time to appoint one or more ſurveyors or overſeers of the ſaid roads or highways, and to employ labourers and workmen to make and keep the ſame in repair.

Returns of public roads to be recorded

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioners ſhall from time to time make regular returns in writing of all the roads or highways by them widened, altered or laid out, to be ſigned by the clerk of the Common Council of the ſaid city of New-York, and cauſe the ſame to be entered in the records of the ſame city, and that whatever the ſame Commiſſioners ſhall do according to the powers given them by this act, being ſo entered on record, ſhall be deemed good and valid, to all intents conſtructions and purpoſes in the law whatſoever.

V. *And*

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Penalty on perſons making obſtructions, &c.

V. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, ſhall wantonly ſpoil or damage any ſuch roads, bridges, or cauſeways, or fill up or deſtroy any of the ditches aforeſaid, or fence acroſs any of the ſaid roads or highways, or erect or ſet up any gates thereon, or put or leave in any of them any unneceſſary obſtruction without leave of the ſaid Commiſſioners, or if any perſon or perſons ſhall leave a dead horſe, or the carcaſe of any other beaſt, or any broken carriage, in any of the ſaid roads or highways for any longer time than may be neceſſary to remove the ſame, or ſet up in or near the ſaid roads or highways, any thing by which horſes are uſually affrighted, or ſhall by any improper behaviour affright any horſe or traveller, on any of the ſame roads or highways, every ſuch perſon ſhall for every ſuch offence, forfeit and pay to the Treaſurer or Chamberlain of the ſaid city for the time being, the ſum of forty ſhillings lawful money of this State, to be recovered by the ſame Treaſuer or Chamberlain, with coſts of ſuit, by action of debt, before any court having cognizance thereof, and when recovered to be applied to the repairing and improving the ſaid roads or highways, as the ſaid Commiſſioners ſhall think fit.

On nuſances.

And further, to prevent as far as poſſible the evaſion of the good purpoſes intended by this act, that the owner of every dead horſe or other nuſance aforeſaid, left in any of the ſaid public roads or highways ſhall be deemed to have put or left the ſame thereon, unleſs he or ſhe prove the contrary.

Overſeers duty in caſes of nuiſance. Penalty for neglect.

VI. *And be it further enacted by the authority aforeſaid,* That on information being given, by any perſon whomſoever, to the Overſeer or Overſeers of the ſaid roads or highways, of any of the ſaid nuiſances or obſtructions, he ſhall immediately proceed to the removing thereof; and ſhall alſo uſe his beſt endeavors to diſcover the perſon or perſons who committed the ſame, who upon diſcovery, ſhall not only be liable to the penalties, herein before appointed, but alſo to the coſts of removing them, and a reaſonable compenſation to ſuch Overſeer or Overſeers, for his or their time or trouble therein; to be recovered by ſuch Overſeer or Overſeers, with coſts of ſuit, before any court having cognizance thereof as aforeſaid.

Penalty on Overſeers neglect or refuſal.

And further, that every overſeer who ſhall neglect or refuſe to do his duty, according to the true intent and meaning of this act, ſhall for every ſuch neglect or refuſal, forfeit and pay to the Treaſurer or Chamberlain of the ſaid city for the time being, the ſum of five pounds like lawful money for every offence, to be recovered with coſts of ſuit, and paid and applied as aforeſaid.

Proceſs how to be made.

VII. *And be it further enacted by the authority aforeſaid,* That the firſt proceſs to be iſſued againſt any offender or offenders againſt this act, ſhall be by warrant and not otherwiſe, and that the execution, on conviction, ſhall be againſt the goods and chattels of the offender or offenders; and for want of ſuch goods and chattels, againſt his, her, or their bodies and ſhall be contained in one and the ſame precept and not otherwiſe; any law, uſage, or cuſtom to the contrary hereof in any wiſe notwithſtanding.

Penalty on perſons felling trees, &c. on a road.

VIII. *And be it further enacted by the authority aforeſaid,* That in caſe any perſon or perſons, ſhall fell or otherwiſe deſtroy any tree or trees, ſtanding on any of the ſaid roads, or within the diſtance of one rod thereof, without the leave of the ſaid Mayor, Aldermen and Commonalty, or of the owner of ſuch tree or trees; ſuch perſon or perſons ſhall for every ſuch offence forfeit the ſum of three pounds, to be recovered, paid, and applied as aforeſaid.

Regulating paſſengers.

IX. *And be it further enacted by the authority aforeſaid,* That in all caſes of perſons meeting each other on on any of the ſaid roads or highways, in carriages, waggons, carts or ſleighs, thoſe who are going out northward, ſhall give way to ſuch as are coming in ſouthward, under the penalty of forty ſhillings for every offence, to be recovered, paid, and applied in manner aforeſaid.

CHAP.

## CHAP. LXII.

AN ACT *for the more eaſy aſſeſſment and collection of taxes in the city and county of New-York.*" Paſſed the 21ſt of March, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That all taxes to be levied within the city and county of New-York, by virtue of any law hereafter to be made and paſſed, whether for the uſe of the State, or for the maintenance of the poor, and defraying the contingent charges within the ſaid city and county, ſhall be rated and aſſeſſed by the aſſeſſors, and collected by the collectors now choſen, or hereafter to be choſen for the aſſeſſing and collecting of taxes to be raiſed within the ſaid city and county, any law, uſage, or cuſtom to the contrary in any wiſe notwithſtanding.

Taxes how to be rated and aſſeſſed in New-York.

II. *And be it further enacted by the authority aforeſaid,* That all monies heretofore raiſed, or hereafter to be raiſed by tax on the eſtates real and perſonal, of the freeholders and inhabitants of the ſaid city and county for the maintenance of the poor, and for defraying the contingent charges within the ſaid city and county, ſhall be paid into the hands of the Treaſurer or Chamberlain of the ſame city for the time being, and ſhall be applied and diſpoſed of for the purpoſes for which the ſame are or ſhall be ſo raiſed, in ſuch proportions and from time to time as the Mayor, Aldermen and Commonalty of the ſame city in Common Council convened, by warrant under the hand of the Mayor or Recorder of the ſaid city, preſiding in ſuch Common Council ſhall direct and appoint.

Taxes for ſupporting the poor, how to be applied.

III. *And be it further enacted by the authority aforeſaid,* That the Mayor, Recorder and Aldermen for the time being of the city of New-York, or the major part of them, of whom the Mayor or Recorder always to be one, ſhall be, and hereby are declared to be the ſuperviſors of the city and county of New-York, and ſhall be ſo conſidered in all laws already made and hereafter to be made, except in ſuch caſes where in and by this act or any other of the laws aforeſaid it is or hereafter ſhall be otherwiſe expreſſly directed.

Mayor, &c. conſtituted Superviſors of the city.

IV. *And be it further enacted by the authority aforeſaid,* That no Miniſter of the Goſpel, Phyſician, Surgeon, Clerk or Attorney of any Court of Record, or any perſon who ſhall have ſerved as a Member or Clerk of the Senate or Aſſembly, or in any office in the Corporation of the ſaid city, ſuperior to that of Collector or Conſtable ſhall be compelled to ſerve in the ſaid office of Collector or Conſtable, within the ſaid city.

Who are exempted from ſerving as Conſtables, &c.

## CHAP. LXIII.

AN ACT *for altering the Charter Rights of the City of Albany.* Paſſed the 21ſt of March, 1787.

WHEREAS by the charter of incorporation granted to the Mayor, Aldermen and Commonalty of the city of Albany, on the twenty ſecond day of July in the year of our Lord one thouſand ſix hundred and eighty ſix, it is among other things granted and declared, that the Mayor of the ſaid city for the time being, and no other ſhall have power and authority to grant Licences annually under the public ſeal of the ſaid city, to all tavern keepers, ordinary keepers, victuallers and all public ſellers of wine, ſtrong waters, cyder beer or any ſort of liquor by retail, within the liberties and precincts thereof, or without the ſame in any part of the county of Albany; and that the Mayor of the ſaid city for the time being, ſhall be the ſole coroner of the ſaid city and county of Albany. That the ſaid Mayor, Aldermen and Commonalty ſhould have the excluſive right of regulating the trade with the Indians in the ſaid city of Albany, and to the eaſtward, northward and weſtward of the ſaid city; and that the freemen of the ſaid city, and no other inhabi-

Preamble.

tant of the colony of New-York ſhould be admitted to ſuch trade. That the election of Aldermen, Aſſiſtants and Chamberlain for the ſaid city, ſhall be annually held on the feaſt of St. Michael the Archangel. That the Mayor, and any three or more of the Aldermen, and three or more of the Aſſiſtants, ſhall be the Common Council of the ſaid city. And that a Court of Common Pleas ſhall be held once every fortnight, for the ſaid city of Albany before the Mayor, Recorder and Aldermen, or any three of them whereof the Mayor or Recorder to be one.

Further preamble.

And whereas the ſaid Mayor, Aldermen, and Commonalty have by a deed under their common ſeal, ſurrendered and yielded up to the people of this State, the ſaid above mentioned and recited rights and privileges granted to them in and by the ſaid charter, of the Mayor of the ſaid city, granting licences to tavern keepers, and others as aforeſaid, in any part of the county of Albany, (the ſaid city of Albany only excepted) and of the Mayor, being the coroner of the ſaid city and county of Albany, and alſo the right of regulating and excluſively enjoying the ſaid trade with the ſaid Indians, and alſo the right of electing the officers aforeſaid on the feaſt day of St. Michael the Archangel.

Further preamble,

And whereas the ſaid Mayor, Aldermen and Commonalty of the ſaid city, have alſo by their petition under their common ſeal as aforeſaid, prayed to have certain alterations made in the rights and privileges herein before recited, and not in and by the ſaid deed ſurrendered and yielded up. *Therefore,*

Deed ſurrendering the charter of Albany accepted.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the ſaid deed of the ſaid Mayor, Aldermen and Commonalty of the city of Albany is hereby declared to be accepted; and that the ſaid rights and privileges of the Mayor of the ſaid city of granting licences to tavern keepers and others as aforeſaid (excepting only in the city of Albany,) and of being coroner of the ſaid city and county of Albany, and alſo the right of regulating and carrying on the ſaid trade with the Indians, and alſo the right of electing the ſaid Aldermen, Aſſiſtants and Chamberlains on the day aforeſaid, reſpectively granted in and by the ſaid charter of incorporation, ſhall be, and the ſame are hereby reſpectively aboliſhed, abrogated, annulled and made void, any thing in the ſaid charter contained, to the contrary thereof, in any wiſe notwithſtanding.

Corporation officers when to be held, &c.

II. *And be it further enacted by the authority aforeſaid,* That the election of the ſaid Aldermen, Aſſiſtants and Chamberlain, to be elected in purſuance of, and in virtue of the ſaid charter, ſhall forever hereafter be held on the laſt Tueſday of September in every year, and that the ſaid Aldermen, Aſſiſtants and Chamberlains, ſhall inſtead of taking the oaths of office purſuant to the directions of the ſaid charter, on the fourteenth day of October in every year forever hereafter, take the ſaid oaths in the manner preſcribed in and by the ſaid charter on the ſecond Tueſday of October in every year.

Recorder in certain caſes may hold a Common Council.

III. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful, when and as often as the Mayor of the ſaid city for the time being, ſhall be ſick, die or be abſent from the ſaid city, for the Recorder of the ſaid city to Convene a Common council for the ſaid city, and to hold the ſame in the like manner, and with the ſame number of Aldermen and Aſſiſtants, as the Mayor of the ſaid city in and by the ſaid charter is authorized and empowered to convene and hold the ſame.

In what caſe three Aldermen may hold a court.

IV. *And be it further enacted by the authority aforeſaid,* That in caſe of the ſickneſs, death or abſence of the Mayor and Recorder, it ſhall and may be lawful to and for any three of the Aldermen, of the ſaid city, to hold and keep the court of Common Pleas eſtabliſhed in and by the ſaid charter, in like manner, as if the ſaid Mayor or Recorder were preſent in, and together with two Aldermen, held and kept the ſame.

One of the Coroners alwayto be a citizen of Albany.

V. *And be it further enacted by the authority aforeſaid,* That one of the coroners to be appointed in and for the the county of Albany, ſhall forever hereafter be a citizen of the ſaid city, and that ſuch coroner ſo being a citizen of the ſaid city, ſhall be the ſole coroner in and for the ſaid city.

*Provided*

*Provided always*, that nothing in this act contained, shall be construed to alter, change or abolish the right granted in and by the said charter, to the Mayor of the said city, to grant licences to tavern keepers and others, who sell liquors in the said city, in the manner directed and declared in and by the said charter, or to affect alter, abridge or extend any right or privilege, granted in and by the said charter, other than those in and by this act particularly mentioned, as altered, abrogated or abolished. Proviso.

## CHAP. LXIV.

AN ACT *for the relief of persons who were in exile during the late war in respect to the payment of certain arrears of taxes.* Passed the 22d of March, 1787.

WHEREAS it hath been represented to the Legislature by the humble petition of William Van Deursen, Joseph Hall and several other persons who were inhabitants of the city of New-York, previous to the evacuation thereof by the army of the United States, that they are charged with certain arrears of taxes, assessed against them during the time of their exile, and while they were resident in the city of Albany, and before their return with their families to the said city of New-York; and whereas the time limitted by the act entitled, "An act for the more effectual collection of the arrears of taxes," passed the 31st of March, 1786, for the payment of such arrears in certificates, had expired before the said persons were required to pay the same. And whereas suits have been commenced against the said persons for the payment of the said arrears, in gold or silver coin, and it is deemed reasonable that the said persons should be relieved in the premises. *Therefore*, Preamble.

I. BE it Enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for all such persons respectively to pay such sums as shall be found due and owing by them for any such arrears, in the certificates made receivable by the said act, and it is hereby made the duty of the Collectors, the county Treasurers and the Treasurer of this State, to receive the same in like manner as they might have done, had such payments been made before the first day of November last, any thing in the said act to the contrary hereof in any wise notwithstanding. *Provided* that each of the said persons shall pay the costs of prosecution in any suit or suits that have been or may hereafter be commenced against them for or on account of the said arrears respectively. Certain persons allowed to pay arrears of taxes in certificates.

## CHAP. LXV.

AN ACT *for the speedy Trial and punishment of such Persons as shall commit any Offences under the Degree of Grand Larceny.* Passed the 24th of March, 1787.

BE it enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That every person who shall, after the passing of this act, be guilty of the felonious or fraudulent taking and carrying away of the meer personal goods of another, of the value of five pounds lawful money of this State, or under, (except in such cases where the offence is or shall be by law punishable with death) shall be deemed and adjudged to be guilty of petty larceny only, and being thereof duly convicted by verdict or confession on indictment, in the Supreme Court, Court of Oyer and Terminer, or Gaol Delivery, or Court of General Sessions of the Peace of the city or county in which such offence shall have been committed, shall suffer such corporal punishment, not extending to life or limb, Petty larceny described. How punished.

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limb, as the ſame court in which ſuch conviction ſhall take place, in their diſcretion ſhall think proper to award; and if ſuch corporal puniſhment ſhall be by whipping, it ſhall not exceed thirty-nine laſhes in one day.

Recital.

And whereas evil diſpoſed perſons do frequently go to ſhops, ſtores and other places within this State, and purchaſe or take up monies, goods, or merchandize of various kinds, in the name of other perſons, without their knowledge or conſent.

*For prevention and puniſhment whereof,*

Penalty on perſons fraudulently taking up goods, &c. on another's credit.

I. *Be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall from and after the paſſing of this act, knowingly and deſignedly, by falſe pretence or pretences obtain from any other perſon or perſons, any monies, goods or merchandize, or other effects whatſoever, with intent to cheat or defraud ſuch perſon or perſons of the ſame, he, ſhe, or they, ſhall be deemed guilty of an offence againſt the people of this State; and being thereof duly convicted in manner aforeſaid, in any of the courts aforeſaid, ſhall ſuffer ſuch puniſhment, as in caſes of petty larceny by this act is directed to be inflicted.

Recital.

And whereas not only ſeveral diſorderly perſons inhabiting in the city and county of New-York but many other vagrant and idle perſons, paſſing the ſame from the neighbouring counties and States, or elſewhere, have often committed divers miſdemeanors, breaches of the peace, and other criminal offences aforeſaid, under the degree of grand larcenary, and not being able to procure bail, to appear at the General Seſſions of the Peace, then next to be held in and for the ſaid city and county, and having no ſubſtance of their own, have been a great expence to the inhabitants thereof in maintaining them in the mean while in goal. *For remedy whereof,*

Perſons convicted of petty larceny, to find bail, or be committed to priſon.

III. *Be it further enacted by the authority aforeſaid,* That every perſon who ſhall after the paſſing of this act, commit any of the offences, in this act abovementioned and deſcribed within the ſaid city and county of New-York, and who being apprehended and brought before the Mayor, Recorder or any one of the Aldermen, of the ſaid city, and charged on oath with having committed any of the offences aforeſaid, ſhall not forthwith give good and ſufficient bail for his or her appearance, at the then next General Seſſions of the Peace, to be held in and for the ſaid city and county of New-York, then and there to anſwer the offence or offences, which he or ſhe ſhall be charged with, ſuch perſon ſo charged ſhall be committed to the common goal of the ſaid city and county. And in caſe any perſon ſhall be ſo committed, and being kept in the ſaid goal for the ſpace of forty eight hours, from and after ſuch commitment, ſhall not give good and ſufficient bail for his or appearance at the then next General Seſſions of the Peace, to be held in and for the ſaid city and county of New-York, then and there to anſwer for the offence or offences, wherewith he or ſhe ſhall be charged; then and in every ſuch caſe it ſhall and may be lawful to and for the Mayor, Recorder and Aldermen of the ſaid city, for the time being or any three of them, of whom the Mayor or Recorder to be one, forthwith to hear and determine the offence or offences committed by ſuch offender as aforeſaid: And the ſaid offender being convicted by confeſſion, or the oath of one or more credible witneſs or witneſſes, the ſaid Mayor, Recorder and Aldermen, or the major part of ſuch of them as do appear in ſuch court, are hereby further authorized and impowered to give judgment againſt the ſaid offender, ſo convicted as aforeſaid, to have and receive ſuch corporal puniſhment (not extending to life or limb, nor exceeding thirty nine laſhes in one day as aforeſaid) as they in their diſcretion ſhall think proper; and to be confined in the houſe of employment or bridewell of the ſaid city, to be kept at hard labour therein, or at any work or employment, within any part of the ſaid city and county, for any longer or ſhorter period according to the nature of the offence, or either of the ſaid puniſhments, as in the judgment of the ſaid court, the nature of the offence and character of the offender, ſhall render proper. But that no perſon ſhall be confined in manner aforeſaid by virtue of this act, for any term longer than ſix months. And after the ſaid offender ſhall have received his or her puniſhment, being an inhabitant of the ſaid city and county ſhall be immediately diſcharged without paying any fees; but

After 48 hours, Mayor, &c. may try the caſe.

not

not being ſuch an inhabitant, he or ſhe ſhall immediately be ordered or tranſported out of the ſaid city and county, to his or her laſt place of ſettlement or abode if known. And if any perſon or perſons having been ſo ordered or tranſported out of the ſaid city and county as aforeſaid, ſhall remain in the ſame for the ſpace of forty eight hours, or return thereto within ſix calender months after ſuch order or tranſportation, ſuch perſon or perſons ſo remaining, or returning ſhall be forthwith apprehended and again receive ſuch corporal puniſhment (not extending to life or limb nor exceeding thirty nine laſhes in one day as aforeſaid) or be confined in bridewell for ſo long a time, not exceeding three months, as the ſaid Mayor, Recorder and Aldermen, or any three of them as aforeſaid, in their diſcretion ſhall order and direct.

Mayor, &c. to iſſue warrants to execute judgments.

IV. *And be it further enacted by the authority aforeſaid*, That in order to carry the ſentences or judgments of ſuch reſpective courts, of the Mayor or Recorder and Aldermen, into immediate and effectual execution, it ſhall and may be lawful for the Mayor or Recorder, preſiding at ſuch court, by warrant or order under his hand and ſeal, directed to the Sheriff of ſaid city and county to command the ſame Sheriff, and the ſame Sheriff is hereby directed and required, to cauſe the ſentences or judgments of ſuch reſpective courts, of the Mayor or Recorder, and Aldermen to be carried into effectual execution, at the time and in the manner in the reſpective warrants or orders to be ſpecified, according to the true intent thereof: And the Deputy Sheriffs, Conſtables and Marſhalls, and every of them, are, by this act, commanded and required, from time to time, to aid and aſſiſt ſuch Sheriff or Deputy Sheriffs in the execution of ſuch reſpective warrants or orders.

Charges how to be paid.

V. *And be it further enacted by the authority aforeſaid*, That the charges of proſecuting and puniſhing every ſuch offender as aforeſaid, in the manner above mentioned, ſhall be raiſed, levied and paid, in the ſame manner and at the ſame time that money is raiſed in the ſaid city and county, for the maintenance of the poor, and the other contingent expences, ariſing in the ſaid city and county; ſo as the whole charge for proſecuting and puniſhing each ſuch offender, ſhall not exceed the ſum of twenty ſhillings.

Perſons accuſed, and giving bail, to be tried at the next General Seſſions.

VI. *And be it further enacted by the authority aforeſaid*, That if any perſon, who ſhall be charged with an offence by this act, intended to be puniſhed, and being apprehended for the ſame, ſhall within the time allowed by this act for that purpoſe, give good and ſufficient bail for his or her appearance at the then next General Seſſions of the Peace, to be held in and for the ſaid city and county, then and there to anſwer the offence or offences, he or ſhe ſhall be charged with, then and in ſuch caſe, the ſaid ſeſſions, ſhall take cognizance of the ſame; and on ſuch offender being indicted and convicted, ſhall give ſuch judgment, as the ſaid Mayor, Recorder and Aldermen might have given, in caſe the ſaid offender had been tried and convicted by them, as before mentioned: Which ſaid judgment the ſaid court ſhall cauſe to be put in execution, by order under the hand of the clerk of the ſame court, in like manner, as the judgment of the Mayor, Recorder and Aldermen, is directed to be executed. And after the offender ſhall have received his or her puniſhment, he or ſhe, ſhall be immediately diſcharged as aforeſaid.

Perſons convicted in any other county than New-York, how to be puniſhed.

VII. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall after the paſſing of this act, commit any of the offences in this act above mentioned and deſcribed within any of the counties of this State, and be apprehended and brought before any Juſtice of the Peace of the ſaid county, and charged on oath with having perpetrated any of the offences aforeſaid, and thereupon commited for the ſame, to the common goal of the county or to the cuſtody of the Conſtable of the town or place where ſuch offender ſhall be taken, and being kept in the ſaid goal, or in the cuſtody of ſuch Conſtable as aforeſaid, the full ſpace of forty eight hours, from and after ſuch commitment, ſhall not give good and ſufficient bail for his or her appearance, at the then next General Seſſions of the Peace, to be held in and for the county where ſuch offender ſhall be in cuſtody, then and there to anſwer the offence or offences, wherewith he

or ſhe ſhall be charged as aforeſaid, then and in ſuch caſe, it ſhall and may be lawful to and for the Juſtice of the Peace, who committed ſuch offender, to certify the cauſe of ſuch commitmnet to two other Juſtices of the Peace in the ſaid county, and require them by virtue of this act, to aſſociate themſelves with him, which they are hereby required to do. And the ſaid Juſtices being met are hereby authorized and empowered forthwith to hear and determine the offence or offences, committed by ſuch offender. And the ſaid offender being convicted by confeſſion, or by oath of one or more credible witneſs or witneſſes, the ſaid Juſtices or any two of them agreeing, are hereby further authorized and impowered, to give judgment againſt the ſaid offender ſo convicted as aforeſaid, to have and receive ſuch corporal puniſhment (not extending to life or limb, nor exceeding thirty nine laſhes in one day as aforeſaid) as they in their diſcretion ſhall think proper; and by their warrant directed to the Conſtable of the town or place where ſuch Juſtices ſhall hear and determine the ſaid offence or offences (who is hereby directed and required to execute the ſame) ſhall cauſe their ſaid judgment to be put in execution: And after ſuch offender ſhall have received his or her puniſhment, being an inhabitant of ſuch county, ſhall be immediately diſcharged, without paying any fees, but not being ſuch an inhabitant he or ſhe ſhall be ordered or tranſported by warrant from the ſaid Juſtices, to the place of his or her laſt ſettlement or abode if known; which warrant the ſaid Juſtices are hereby impowered and directed to iſſue. And further that nothing in this act contained ſhall be conſtrued to prevent the Juſtices from trying any ſuch offender, in leſs than forty eight hours, if he or ſhe ſhall require the ſame. And further that if any perſon having been ſo ordered or tranſported out of ſuch county, ſhall remain in the ſame county, for the ſpace of forty eight hours or return thereto within ſix calender months, after ſuch order or tranſportation, ſuch perſon ſo remaining or returning, ſhall be forthwith apprehended, and again receive ſuch corporal puniſhment (not extending to liſe or limb, nor exceeding thirty nine laſhes in one day as aforeſaid) as three Juſtices of the Peace in the ſame county aſſembled for that purpoſe, or any two of them ſhall in their diſcretion think proper; and ſo from time time, as often as ſuch perſon or perſons, ſhall ſo remain or return.

Charges of proſecution how to be paid.

IV. *And be it further enacted by the authority aforeſaid,* That the charges of proſecuting, puniſhing and tranſporting every ſuch offender, ſhall be defrayed by the reſpective counties, where the ſame offence ſhall happen, and ſhall be raiſed levied and paid in the ſame manner, and at the ſame time, that money is raiſed for the payment of the other contingent charges of ſuch reſpective counties, ſo as the whole charges for each ſuch offender ſhall not exceed the ſum of forty ſhillings.

Juſtices may impoſe a fine inſtead of puniſhment.

V. *And be it further enacted by the authority aforeſaid,* That the Juſtices, or court before whom any perſon, ſhall be convicted of any of the offences aforeſaid, ſhall be, and hereby are impowered, if they think it proper, in lieu of corporal puniſhment, to impoſe a fine on ſuch offender, not exceeding the ſum of ten pounds; which fine or ſo much thereof, as ſhall be ſufficient, ſhall be applied towards the payment of the charges of the proſecution, and the remainder if any be, ſhall be paid to the Treaſurer of the county, where the ſame ſhall be impoſed, for the uſe of the ſame county; any thing in this act contained to the contrary notwithſtanding.

*Provided always,*

Perſons loſing goods, &c. how to have remedy.

VI. *And be it further enacted by the authority aforeſaid,* That the perſon or perſon or perſons, from whom any monies, goods, merchandize or effects, ſhall have been taken, or fraudently obtained contrary to the true intent and meaning of this act, ſhall have ſuch remedy by ſuit at law, therefore, as he, ſhe, or they might have had, if this act had never been made, any thing herein contained to the contrary in any wiſe notwithſtanding.

CHAP.

## CHAP. LXVI.

AN ACT *for the more effectual Puniſhment of Perſons who ſhall be guilty of the Treſpaſſes therein mentioned, in the cities of New-York, Albany, and Hudſon, and the Townſhip of Schenectady.* Paſſed the 24th of March, 1787.

Preamble.

WHEREAS evil minded perſons have often broken, taken down, or carried away the glaſs lamps hung out or fixed up before the dwelling houſes of many of the inhabitants, and in the ſtreets of the city of New-York, to illuminate the ſtreets aforeſaid in the night time, or have extinguiſhed the lights therein, and have alſo been guilty of breaking glaſs windows, porches, and knockers of doors in the ſaid city, and in the cities of Albany and Hudſon, and townſhip of Schenectady, and of committing other treſpaſſes and enormities, injurious to the property of the inhabitants, and to the diſturbance of the peace in the ſaid reſpective cities and townſhip.

*For prevention thereof in future,*

Penalty on perſons breaking lamps, &c.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That if any perſon ſhall, after the paſſing of this act wilfully break, take down, or carry away, any glaſs lamp, already hung or fixed, or hereafter to be ſo hung or fixed as aforeſaid, in any of the ſtreets of the ſaid cities or townſhip, or extinguiſh the lights therein, or be aiding or abetting in the ſame, or ſhall wilfully break or deface any glaſs window, porch, knocker, or other fixture, in any of the ſaid cities or townſhip, and ſhall thereof be convicted before the Mayor, Recorder, or any one of the Aldermen of the ſaid cities reſpectively, or before any Juſtice of the Peace reſiding in the townſhip aforeſaid, either by the confeſſion of the party, or by the oath of one or more credible witneſs or witneſſes, he or ſhe ſhall, for every ſuch offence, forfeit a ſum not exceeding ten pounds lawful money of this State, to be recovered with coſts, and levied by diſtreſs and ſale of the goods and chattels of every ſuch offender, by warrant under the hand and ſeal of ſuch Mayor, Recorder, Alderman, or Juſtice, before whom ſuch offender ſhall be convicted; one moiety of which forfeiture, when recovered, to be paid to the Treaſurer or Chamberlain of the ſaid cities reſpectively, for the time being, to be applied for the purpoſes of providing new lamps, in the room of ſuch as ſhall be ſo taken out or carried away, and for repairing ſuch of them as ſhall be broken or injured as aforeſaid, and for the ſupport and maintenance of the poor of ſuch reſpective cities or townſhip where ſuch offences ſhall be committed; and the other moiety of ſuch forfeiture to be paid to the perſon or perſons who ſhall proſecute for the ſame to effect.

How to be recovered.

II. *And be it further enacted by the authority aforeſaid,* That upon refuſal of payment of ſuch reſpective forfeiture or forfeitures, and want of ſufficient diſtreſs whereon the ſame can be levied, it ſhall and may be lawful for ſuch Mayor, Recorder, Alderman, or Juſtice of the Peace, before whom ſuch conviction or convictions ſhall take place, by warrant under his hand and ſeal, to commit every ſuch offender, if convicted in the city of New-York, to the bridewell, or houſe of employment of the ſaid city; if convicted in the cities of Albany or Hudſon, to the common gaol of the ſame cities reſpectively; and if convicted in the townſhip of Schenectady, aforeſaid, to the common gaol of the city and county of Albany, there to remain, without bail or mainpriſe, for the ſpace of two months, or until ſuch forfeiture and coſts are paid. And if any ſuch offence ſhall be committed by any apprentice, ſervant, or ſlave, ſuch forfeiture ſhall be paid by his or her maſter, miſtreſs, or owner, or in default thereof, ſuch apprentice, ſervant, or ſlave, ſhall be committed to ſuch bridewell or gaol, in manner aforeſaid.

On refuſal of payment, offenders to be committed to bridewell or gaol.

*And whereas* the miſchiefs aforeſaid are generally committed in the night time, when the offenders cannot be eaſily known; in order therefore to carry this act into effect,

Recital.

III. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for any Sheriff, Deputy-Sheriff, Conſtable, Marſhal, or Watchman of the ſaid cities and townſhip aforeſaid, who ſhall ſee any perſon commit any of the miſchiefs or treſpaſſes in either of the cities, or the townſhip aforeſaid, if ſuch perſon or perſons ſhall be unknown to ſuch Sheriff, Deputy-Sheriff, Conſtable, Marſhal, or Watchman, to ſeize, ſecure, and detain ſuch offender ſo unknown to him as aforeſaid, until he can diſ-

Clauſe for the more eaſy diſcovery of offenders.

diſcover the name of ſuch offender, or until the next morning, if the offence ſhall be committed in the night time, and the offender ſhall refuſe to diſcover his or her name, when ſuch offender ſhall be brought before the Mayor, Recorder, or one of the Aldermen of the ſaid cities reſpectively, or Juſtice of the Peace reſiding in the townſhip aforeſaid, who on conviction of ſuch offender, ſhall proceed againſt him or her in the manner herein before directed. And further in caſe any perſon ſhall commit any or either of the offences aforeſaid, in the preſence of any ſuch Sheriff, Deputy Sheriff, Conſtable, Marſhall or Watchmen, that then, every ſuch Sheriff, Deputy Sheriff, Conſtable, Marſhall or Watchman, ſhall forthwith give information thereof, to ſuch Mayor, Recorder, Aldermen or Juſtice of the Peace, in order that ſuch offender may be convicted thereof, and puniſhed in manner and form as by this act is directed.

This act not to preclude the injured from recovering damages.

IV. *And be it further enacted by the authority aforeſaid*, That this act or any thing herein contained, ſhall not bar or preclude any perſon or perſons from recovering his, her or their damages, againſt any other perſon or perſons, who ſhall be guilty of any of the michiefs or treſpaſſes aforeſaid, but that the ſame may be recovered in the ſame manner, as if this act had never been paſſed.

In what caſes perſons preſent to be deemed guilty.

V. *And be it further enacted by the authority aforeſaid*, That every perſon, who ſhall or may be preſent when any of the miſchiefs or treſpaſſes in this act mentioned ſhall be committed, ſhall be deemed to be guilty thereof, and be ſubject to the penalties inflicted by this act, although he or ſhe, ſhall not be aiding, abetting or aſſiſting therein, unleſs ſuch perſon ſhall give evidence, whereby to convict the perſon or perſons really guilty thereof; or unleſs he or ſhe ſhall declare upon oath that he or ſhe came there accidentally, and that he or ſhe doth not know who the offender or offenders is or are. And for the more eaſy diſcovery and detection of ſuch offenders.

Parties informing, not liable to a fine.

VI. *Be it further enacted by the authority aforeſaid*, That if two or more perſons, ſhall have been jointly concerned in committing any of the offences aforeſaid and one or more of them (not being before informed againſt) ſhall within the ſpace of one month after the offence committed, inform againſt any, or all the other or others concerned in the ſame offence, ſo as to convict him, her, or them, the perſon ſo informing, ſhall not be liable to the payment of the forfeiture herein before mentioned, but ſhall notwithſtanding his or her offence, be entitled to the reward herein before allowed to informers; any thing herein before contained, to the contray thereof in any wiſe notwithſtanding.

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## CHAP. LXVII.

AN ACT *giving further Powers to Aſſignees of the Eſtates of inſolvent Debtors.*
Paſſed the 24th of March, 1787.

Preamble.

WHEREAS in and by the act entitled, "An act for the relief of inſolvent debtors," paſſed the 17th of April, 1784, and in and by an act to amend the ſaid act, paſſed the 24th of November, 1784, no proviſion was made, nor is any made in and by the act entitled, "An act for the relief of inſolvent debtors," paſſed the 13th of April, 1786, for applying any ſurplus effects or monies ariſing out of the eſtate of any inſolvent debtor who may have taken the benefit of either of the acts abovementioned, or hereafter ſhall take the benefit of the laſt mentioned act, which ſhall or may remain in the hands of the aſſignees of any inſolvent debtor after paying the full amount of the debts exhibited againſt ſuch inſolvent debtor, and the coſts and charges attending the ſettlement of ſuch eſtate, agreeable to the directions of the law in ſuch caſes made and provided.
*Therefore,*

*Be*

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That in all caſes where any inſolvent debtor has been or hereafter ſhall be diſcharged in purſuance of any of the acts above mentioned, and the aſſignees of the eſtate of any ſuch inſolvent debtor, after paying the full amount of the debts exhibited to them againſt ſuch inſolvent debtor, and the coſts and charges in ſettling ſuch eſtate, agreeable to the act by which they were appointed Aſſignees, ſhall have any effects or money remaining in their hands, part of, or ariſing out of the eſtate of ſuch inſolvent debtor, it ſhall and may be lawful for ſuch aſſignees, to deliver ſuch effects and pay ſuch money, ſo remaining in their hands, to ſuch inſolvent debtor of whoſe eſtate they were aſſignees, or to his or her legal repreſentatives.

Surplus of inſolvents eſtates, how to be diſpoſed of.

*Provided always,* That in reſpect to ſuch debtors, who have been diſcharged in virtue of the ſaid two firſt mentioned acts, no creditor ſhall be entitled to a dividend, who ſhall not have exhibited his or her demand to the aſſignee or aſſignees, prior to the twentieth day of September next, and in reſpect to ſuch debtors as have been, or ſhall be diſcharged by virtue of the ſaid laſt mentioned act, ſuch creditors only as ſhall have exhibited their reſpective demands to the aſſignee or aſſignees of ſuch debtors, within one year from the time of the aſſignment of their reſpective eſtates, ſhall be entitled to a dividend. *Provided nevertheleſs,* That no creditor ſhall be precluded from ſuch dividend, who ſhall exhibit his or her claim within ſix months from the paſſing of this act.

Proviſo.

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## CHAP: LXVIII.

AN ACT *to enable the Mayor, Recorder, and Aldermen of the City of New-York, to order the raiſing Monies by Tax, for the Maintenance of the Poor, and for defraying the other contingent Expences ariſing in the ſame City and County and for other Purpoſes.* Paſſed the 26th of March, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the Authority of the ſame,* That the Mayor, Recorder, and Aldermen of the city of New-York, or the major part of them (of whom the Mayor or Recorder always to be one) ſhall be, and hereby are fully authoriſed and impowered, as ſoon as conveniently may be after the paſſing of this act, to order the raiſing the ſum of ſix thouſand pounds, by a tax on the eſtates real and perſonal, of all and every the freeholders and inhabitants within the city and county of New-York, to be applied to the ſupport and maintenance of the poor of the ſaid city and county, the bridewell, and the criminals from time to time confined in the priſon of the ſaid city and county, and to the repairing and maintaining the public roads, and cleaning and improving the ſtreets within the ſaid city and county. And alſo a further ſum of four thouſand pounds, by a tax on the eſtates real and perſonal, of all and every the freeholders and inhabitants within the ſaid city, on the ſouth ſide of a line beginning at the outlet of the ſwamp of Leonard Liſpenard, Eſquire, into Hudſon's River; thence to and alongthe north ſide of the dwelling houſe of Nicholas Bayard, Eſquire; thence to and along the north ſide of the dwelling houſe of Morgan Lewis, Eſquire; and thence to and along the north ſide of the dwelling houſe of Abraham Cannon, to the Eaſt River; to be applied to the payment of ſo many Watchmen as the Mayor, Aldermen, and Commonalty of the ſaid city, in Common Council convened, ſhall think neceſſary for guarding the ſaid city; and alſo to the purchaſing of oil, providing lamps, and repairing and attending the lamps which now are, or hereafter may be erected within the ſaid city; which ſaid ſeveral ſums abovementioned, ſhall be rated and aſſeſſed according to the eſtate of each reſpective perſon ſo to be taxed, and collected in one payment, and paid into the hands of the Treaſurer or Chamberlain of the ſaid city, at ſuch time as the ſaid Mayor, Recorder, and Aldermen, or the major part of them, ſhall direct and appoint.

Mayor, &c. empowered to raiſe by tax 6000l. for the ſupport of the poor, &c.

And 4000l. for other purpoſes.

Said ſums how to be aſſeſſed, collected and paid.

Chamberlain's fees.

II. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer or Chamberlain of the ſame city, to retain in his own hands, the ſum of two pence in the pound, and no more for his trouble in receiving and paying out the monies, by this act directed to be raiſed.

Recital.

And for the more effectual recovery of the arrears of taxes heretofore directed to be raiſed for the maintenance of the poor, and the other contingent expences ariſing in the ſaid city.

Clauſe for recovery of arrears of taxes.

III. *Be it further enacted by the authority aforeſaid,* That in all caſes where the Collector, or Conſtable of any ward in the ſaid city, ſhall have received any taxes, and not paid the ſame to the Treaſurer or Chamberlain of the ſaid city, it ſhall be lawful for the Treaſurer or Chamberlain of the ſaid city for the time being, to commence and proſecute a ſuit for the recovery thereof, in his own name, as Treaſurer or Chamberlain of the ſaid city againſt ſuch Collector or Conſtable, his executors or adminiſtrators, in an action on the caſe, for monies had and received for the uſe of the ſaid city and county of New-York; in which ſuit it ſhall be ſufficient to ſet forth in the declaration, that the Collector or Conſtable is, or in his life time, was indebted to the ſaid Treaſurer, or Chamberlain of the ſaid city, in a certain ſum, for ſo much money by him as Collector of ſuch ward, before that time had and received, for the uſe of the ſaid city and county; and being ſo thereof indebted, promiſed to pay the ſame, when required, to the ſame Treaſurer or Chamberlain, without ſetting forth the ſpecial matter: And that no ſuch ſuit ſhall be abated or diſcontinued by the death, reſignation or removal from office, of any ſuch Treaſurer or Chamberlain; but the ſame ſhall or may be proſecuted to effect by his ſucceſſor in office.

Mayor, &c. to iſſue warrants for collecting arrears of taxes.

IV. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful, for the Mayor, Recorder, and Aldermen of the ſaid city, or the major part of them, of whom the Mayor or Recorder always to be one, to meet together at ſuch times and places within the ſaid city, as they may think proper, and to examine what ſums of money remain unpaid of the ſeveral taxes aforeſaid in the ſaid city and county of New-York, laid or aſſeſſed ſince the twenty fifth day of November, in the year of our Lord one thouſand ſeven hundred and eighty three: And where they find any ſum or ſums of money uncollected, of any ſuch tax, and the perſons or eſtates charged with the ſame, are ſufficient to pay the ſame, they ſhall iſſue their warrant to the Collectors, for the time being, of the ſame reſpective wards, where ſuch ſums remain unpaid, for the collection thereof: And the reſpective Collectors ſhall levy and collect all ſuch ſums, and ſhall pay the ſame to the Treaſurer or Chamberlain, of the ſaid city, at ſuch time as the ſaid Mayor, Recorder and Aldermen, in their ſaid warrant ſhall direct. And if any Collector ſhall neglect his duty herein, he ſhall be chargeable with the monies ſo directed to be levied and collected, to be recovered by the Treaſurer or Chamberlain of the ſaid city and county of New-York, for the time being, with coſts of ſuit, in manner aforeſaid. And further, that where the ſaid Mayor, Recorder, and Aldermen, ſhall find that the deficiency of any of the ſaid taxes, in any ward, ſhall have happened by the inſolvency, or the want of goods and chattles whereon to levy the ſaid tax, of any perſon or perſons in ſuch ward, on whom the ſame was aſſeſſed, they ſhall add ſuch deficiency to the next tax of the like nature, to be laid upon the ſame ward.

Collectors to collect it.

Penalty for neglect.

Proceedings in caſes of inſolvency.

Arrears when raiſed how to be applied.

V. *And be it further enacted by the authority aforeſaid,* That all and every ſum and ſums of money to be raiſed by virtue of the three laſt mentioned clauſes of this act, ſhall be applied to the purpoſes in the ſeveral acts by virtue of which ſuch reſpective taxes were directed to be raiſed, and from time to time as the Mayor, Aldermen, and Commonalty of the ſaid city, in Common-Council convened, by warrant to be ſigned by the Mayor or Recorder preſiding at ſuch Common Council, ſhall direct and appoint.

## CHAP. LXIX.

AN ACT *directing a Mode of Trial, and allowing of Divorces in Caſes of Adultery.* Paſſed the 30th of March, 1787.

Preamble.

WHEREAS the laws at preſent in being within this State, reſpecting adultery, are very defective, and applications have in conſequence been made to the Legiſlature, praying their interpoſition. And whereas it is thought more adviſeable for the Legiſlature to make ſome general proviſion in ſuch caſes, than to afford relief to individuals, upon their partial repreſentations, without a juſt and conſtitutional trial of the facts.

Mode of proceſs in caſes of adultery.

I. BE *it therefore enacted by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful, in all caſes of adultery that have already been committed, or may hereafter be committed, where the parties are inhabitants of this State, for the party injured, to exhibit or preſent a petition or bill to the Chancellor of this State for the time being, in Chancery, ſetting forth the adultery of which he or ſhe complains. Whereupon a ſubpœna, and other proceſs ſhall iſſue, as in other cauſes in the ſaid court, until the party complained of ſhall appear and anſwer the allegations of the ſaid bill or petition, which anſwer ſhall be received without oath; and if the party complained of ſhall, by his or her anſwer, deny the fact or facts of adultery ſtated in the ſaid bill or petition, the Chancellor ſhall and may thereupon direct ſuch proper iſſue or iſſues, as to him ſhall ſeem expedient for trial of the fact or facts of adultery ſtated in the ſaid bill or petition, which iſſue or iſſues ſhall be tried either by a ſpecial or common Jury, before the Judges of the Supreme Court, or ſome or one of them, at the bar of the ſaid court, or at any Circuit Court within this State, as the Chancellor for the time being, ſhall direct. But if the ſaid party complained of ſhall not, in his or her ſaid anſwer, deny the allegations of the ſaid bill or petition, or if ſuch proceedings ſhall be had in the ſame court of Chancery that the ſaid bill or petition ought according to the courſe of that court, to be taken *pro confeſſo*, then, and in either of the ſaid caſes, the Chancellor ſhall nevertheleſs direct proof to be made before one of the Maſters of the ſaid court, of the facts ſtated in the ſaid bill or petition, who ſhall report the ſame proofs, and his opinion thereon, to the Chancellor, at ſuch time as ſhall be by the ſaid Court of Chancery for that purpoſe appointed.

Chancellor's duty in caſe of proof.

II. *And be it further enacted by the authority aforeſaid,* That if by the verdict of a Jury, upon trial of ſuch iſſue or iſſues as aforeſaid, it ſhall appear or be found that the ſaid party complained againſt was guilty of adultery, or if ſufficient proof has been thereof had in the manner herein before preſcribed, where the fact or facts ſtated in ſuch bill or petition as aforeſaid have been confeſſed by the anſwer of the party complained againſt, or ought, according to the courſe of the ſaid Court of Chancery, to be taken *pro confeſſo*, then, and in any ſuch caſe, the Chancellor, ſhall and may proceed by ſentence or decree, in the ſame court, to pronounce the marriage between the ſaid parties to be diſſolved, and both of them freed from the obligations of the ſame: Provided that ſuch diſſolution of ſuch marriage, ſhall in no wiſe affect the legitimacy of the children thereof: And the Chancellor ſhall and may thereupon take ſuch order touching the care and maintenance of the children (if any there be) of that marriage, and alſo touching the maintenance of the wife, or any allowance to be made to her, and the ſecurity to be given for the ſame, as from the circumſtances of the parties, and the nature of the caſe may be proper and ſufficient.

Perſons convicted, not to marry again,

III. *And be it further enacted by the authority aforeſaid,* That after the diſſolution of any marriage has been pronounced by virtue of this act, it ſhall not be lawful for the party convicted of adultery to remarry any perſon whatſoever, and that every ſuch remarriage ſhall be null and void, but that the other party may make and complete another marriage, in like manner as if the party convicted was actually dead, any law, uſage or cuſtom to the contrary thereof in any wiſe notwithſtanding.

CHAP.

## CHAP. LXX.

AN ACT *for collecting the Arrears of Taxes in Newtown, in Queens County, and for diſcharging the late Collector from impriſonment.*" Paſſed the 4th of April, 1787.

Preamble.

WHEREAS John Goſline, late Collector of Newtown, in Queens county, is now confined in the goal of the ſaid county, for neglect of his duty as Collector of the ſaid town. And whereas a conſiderable part of the taxes on the ſaid town remains to be collected. *Therefore,*

John Goſlin, of Queens county, to deliver up his tax-liſts, and to be releaſed from gaol.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the ſaid John Goſline ſhall deliver to the Treaſurer of the ſaid county, all the tax liſts in his hands, poſſeſſion or power, with an account upon oath, of the monies remaining to be collected thereon. And the ſaid Treaſurer is hereby authorized and required, thereupon to diſcharge the ſaid John Goſline from his impriſonment, and to iſſue a warrant to the collector of the ſaid town for the time being, commanding him to levy and collect the monies remaining to be collected on the ſaid tax liſts; and the ſaid Collector ſhall thereupon levy and collect all the ſaid taxes ſo remaining to be collected, in the ſame manner as the ſaid John Goſline might or ought to have done; and ſhall pay the ſame, after deducting ſix pence in the pound for collecting, to the Treaſurer of the ſaid county, on or before the firſt day of June next, to be by him applied according to law.

## CHAP. LXXI.

AN ACT *to repeal part of an act, entitled,* "*An act for granting a more effectual relief in caſes of certain treſpaſſes.*" Paſſed the 4th of April, 1787.

Part of an act herein recited, repealed.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That ſo much of the act aforeſaid as is contained in the words following, to wit, "And if any ſuch action ſhall be brought in any Inferior Court within this States, the ſame ſhall be finally determined in ſuch court, and every ſuch action ſhall be conſidered as a tranſitory action. That no defendant or defendants ſhall be admitted to plead in juſtification any military order or command whatever, of the enemy, for ſuch occupancy, injury, deſtruction, purchaſe, or receipt, nor to give the ſame in evidence on the general iſſue," be, and the ſame is hereby repealed.

## CHAP. LXXII.

Preamble.

AN ACT *for preventing Suits being brought in the Supreme Court for any Debt or Sum not excceding One Hundred Pounds.*" Paſſed the 5th of April, 1787.

WHEREAS there now are, and long have been, Courts of Record in each of the reſpective cities and counties of this State, where ſuch as have occaſion to ſue for debts or wrongs, may with ſmall expence receive juſtice according to the merits of their cauſes. And whereas the proſecution of ſuits in the Supreme Court of this State, is neceſſarily attended with great charge and trouble, as well as loſs of time to the ſuitors, who in many inſtances, live at places remote from the ſaid court. *Therefore,*

I. BE

I. BE it Enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That if any personal action or suit already commenced, and now depending, or hereafter to be commenced and prosecuted in the said Supreme Court, the Plaintiff shall not recover above the sum of twenty pounds, besides costs, then, and in every such case, the plaintiff shall not be entitled to recover any costs of suit, but shall pay costs to the defendant thereupon to be taxed; and the defendant shall, in such case, have judgment and execution for such costs, in the same manner as if a verdict had been given for such defendant.

Regulating proceedings in Supreme Court, in respect to small debts.

*And further,* That if in any personal action or suit already commenced, and now depending, or hereafter to be commenced and prosecuted in the said Supreme Court, the plaintiff or plaintiffs shall recover a judgment in such suit or action, in his, her, or their favor, for a debt or sum, which, exclusive of costs, shall be upwards of twenty pounds, and not exceed one hundred pounds, then, and in every such case, the plaintiff or plaintiffs shall be entitled to and recover no more or other costs than he, she, or they would have been entitled to, if such suit or action had been commenced and determined in any Mayor's Court, or Court of Common Pleas in this State.

What costs the plaintiff to recover.

*Provided always,* That such costs shall not exceed the sum of ten pounds; and provided also, that in all cases where any suit or action commenced in either of the Mayor's Courts, or Courts of Common Pleas, hath been or shall be removed into the Supreme Court, by or at the instance of the defendant, if the plaintiff shall obtain a judgment therein, for any sum exceeding ten pounds, besides costs, then the plaintiff in every such case, shall have and recover costs of suit in the said Supreme Court, together with the costs in such Mayor's Court, or Court of Common Pleas, including all such expences as the same plaintiff shall have been put to in the prosecution of such suit.

Proviso.

II. *And be it further enacted by the authority aforesaid,* That no personal action or suit now depending, or hereafter to be commenced in any Mayor's Court, or Court of Common Pleas in this State, upon any bond or specialty, or for any other matter, cause, or thing whatsoever, where the sum mentioned in the condition of such bond or specialty, with the interest thereof, or the matter or thing in demand, suit, or controversy, shall not exceed the sum of one hundred pounds current money of this State, shall be stayed, or removed into the Supreme Court, by any writ of *habeas corpus, certiorari,* or other writ or process whatsoever, other than writs of error or attaint.

Regulating removal of actions.

III. *And be it further enacted by the authority aforesaid,* That no writ or writs of *habeas corpus,* or any other writ or writs, sued forth, or to be sued forth, by any person or persons whomsoever, out of the said Supreme Court, to remove any action, suit, plaint, or cause, depending or to be depending in any Mayors Court, or Court of Common Pleas in this State, shall be received or allowed by the Judge or Judges, officer or officers of the court wherein or to whom any such writ or writs shall be directed, or offered to be delivered; but that he and they shall and may proceed in the said cause or causes, as though no such writ or writs were sued forth, or delivered to him or them, unless the said writ or writs be delivered to the Judge or Judges, officer or officers of the said court, before any interlocutory or other Judgment entered in the said cause, and before that the Jury which is to try the cause in question, between the party or parties plaintiffs, and the party or parties that sued forth the said writ or writs, or for whose benefit the said writ or writs is or shall be sued forth, have appeared, and one of the said Jury sworn to try the said cause.

From the Common Pleas.

IV. *And be it further enacted by the authority aforesaid,* That if any action, suit, bill, plaint, or cause, which is or shall hereafter be brought, commenced, or depending in any of the Mayor's Courts, or Courts of Common Pleas in this State, shall be removed or stayed by any such writ, or writs, or process, to be sued forth or out of the said Supreme Court, and the same action, suit, bill, plaint, or cause, shall afterwards be remanded or sent back again, by any writ or writs of *procedendo,* or other writ whatsoever, that then the said action, suit, bill, plaint, or cause, shall never afterwards be removed or stayed before judgment, by any writ or writs whatsoever, to be sued forth or out of the said Supreme Court.

Proceedings on writs of Procedendo.

Writ of removal to be signed by a Juſtice of Supreme Court.

V. *And be it further enacted by the authority aforeſaid*, That no writ of *habeas corpus* or *certiorari*, or other writ or proceſs whatſoever, ſhall be granted or ſued forth, or out of the ſaid Supreme Court, to remove any action, ſuit, bill, plaint or cauſe whatſoever, out of any of the Mayors Courts, or Courts of Common Pleas in this State, unleſs the ſame writ or proceſs be ſigned with the proper hand of one of the Juſtices of the ſaid Supreme Court.

Writs contrary to this act, not allowed.

VI. *And be it further enacted by the authority aforeſaid*, That if any writ or writs whatſoever, ſhall be granted or ſued forth, or out of the ſaid Supreme Court, contrary to the true intent and meaning of this act, that then it ſhall and may be lawful, to and for the Judge or Judges, officer or officers, to whom ſuch writ or writs ſhall be directed or delivered, to diſallow and refuſe the ſame; and they are hereby directed and required to proceed, as if no ſuch writ or writs had been granted or ſued out or forth as aforeſaid.

Reſpecting tranſitory actions.

VII. *And be it further enacted by the authority aforeſaid*, That all tranſitory actions and ſuits, now depending or hereafter to be brought, commenced or proſecuted, in any of the Mayors Courts, or Courts of Common Pleas in this State, may be heard, tried and determined therein, although the real cauſe of action did not ariſe within the city or county where ſuch action or ſuit is or ſhall be brought or commenced; and that the ſaid courts ſhall not admit or allow of any foreign plea in any ſuch caſe, to quaſh bar or ſtay any ſuch ſuit or action; butproceed to hear try and determine the ſame, in ſuch manner, as if the cauſe of action had ariſen within the juriſdiction of the court, where ſuch ſuit or action is or ſhall be ſo brought or commenced, any law, uſage or cuſtom, to the contrary notwithſtanding. *Provided always*,

Extent of this act.

VIII. *And be it further enacted by the authority aforeſaid*, That this act ſhall not extend to any ſuit or action, wheren the People of the State of New-York, are or ſhall be intereſted nor to any ſuit or action, where freehold, inheritance or title to lands or tenements, ſhall in any wiſe come in queſtion, nor to actions of replevin, or of aſſault and battery, or of falſe impriſonment, or of ſlander; nor to any ſuit or action to be brought or commenced by or againſt the Mayor, Aldermen and Commonalty of the city of New-York, or the Mayor Aldermen and Commonalty of the city of Albany, or the Mayor, Recorder, Aldermen and Commonalty of the city of Hudſon.

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## CHAP. LXXIII.

AN ACT *to remove doubt reſpecting Judgment Bonds given to the Commiſſioners of Forfeitures, and for other purpoſes therein mentioned.* Paſſed the 7th of April, 1787.

Preamble.

WHEREAS doubts have ariſen whether the ſaid Commiſſioners can receive in payment in diſcharge of ſuch bonds, the certificates made receivable on the ſales of ſuch lands, for ſecuring the payment whereof bonds were taken after the expiration of the term or time expreſſed in the bonds. *For remedy whereof.*

Commiſſioners of Forfeitures authoriſed to receive certain certificates, &c.

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That it ſhall and may be lawful for the ſaid Commiſſioners at any time before actual ſale on execution on any bond and judgment as aforeſaid, to receive in diſcharge of the debt for which ſuch bond ſhall have been taken, the ſame ſpecies of certificates, or other monies for which the ſaid lands were ſold in like manner as they might have received the ſame before the expiration of the term or time aforeſaid.

and to convey a certain lot to the Dutch church at Caghnawaga.

II. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Commiſſioners of Forfeitures for the weſtern diſtrict to convey to the truſtees of the reformed proteſtant Dutch Church at Caghnawaga in the county of Mont-

Montgomery, by the name in which they now are, or ſhall be incoporated, purſuant to the law of this State in that caſe made and provided, lot number forty, containing twenty acres of land ſituate in Butlerſbury in the the ſaid county of Montgomery, forfeited to the People of this State by the attainder of John Butler, inſtead of the twenty acres of land, directed to be conveyed to the ſaid truſtees by the twenty fifth ſection of the act entitled, an act further to amend an act entitled, an act for the ſpeedy ſale of the confiſcated and forfeited eſtates within this State, and for other purpoſes therein mentioned, paſſed the 1ſt of May, 1786.

Clauſe of a certain act repealed.

III. *And be it further enacted by the authority aforeſaid*, That the ninth ſection of the ſaid laſt before recited act, be and the ſame is hereby repealed, ſo far forth only, as that no appointment of any Commiſſioner of Forfeitures, ſhall hereafter be made, unleſs ſuch ommCiſſioners in any of the great diſtricts ſhall be dead, or become incapable of executing the duties of the office.

Recital.

And whereas George Fiſher, late of the city of New-York deceaſed, ſome time in the month of June laſt purchaſed from the Commiſſioners of Forfeitures for the Southern Diſtrict of this State, ſeveral lots of land in the out-ward of the city of of New-York forfeited to the people of the State of New-York, by the attainder of James Delancey, Eſquire, and paid to the ſaid Commiſſioners, the ſum of ſeven hundred and fifty three pounds part of the conſideration for the ſame, and executed a bond for the payment of the reſidue thereof. And whereas a judgment hath been obtained on the ſaid bond and an execution iſſued thereon, againſt the lands and tenements, goods and chattels of the ſaid George Fiſher, who hath ſince died inteſtate, leaving ſeveral children, all infants. And whereas it is repreſented to the Legiſlature, that the ſaid George Fiſher, at the time of his making the purchaſe aforeſaid, was not of ſound mind, and his widow, in behalf of herſelf, and the children of the ſaid George Fiſher, hath prayed relief in the premiſes. *Therefore*,

Commiſſioners of Forfeitures, how to diſpoſe of George Fiſher's eſtate.

IV. *Be it further enacted by the authority aforeſaid*, That the Commiſſioners of Forfeitures for the Southern Diſtrict, ſhall cauſe the ſaid lands ſo purchaſed by the ſaid George Fiſher, to be ſold upon and by virtue of the ſaid judgment and execution; and in caſe the ſame lands ſhall not ſell for the ſum agreed to be given for the ſame by the ſaid George Fiſher, then the ſaid Commiſſioners ſhall cauſe the ſame to be purchaſed for the uſe of this State, and ſhall then cauſe the ſame lands to be ſold at public vendue, for certificates iſſued or to be iſſued by the Treaſurer of this State, after giving at leaſt three months notice of ſuch ſale; and the Treaſurer of this State is hereby directed to pay to the Adminiſtrators of the ſaid George Fiſher, for the uſe of his eſtate, out of any monies now in the treaſury, not otherwiſe appropriated, the ſaid ſum of ſeven hundred and fifty-three pounds, being the ſum ſo paid by the ſaid George Fiſher.

Treaſurer to redeem bills called the New Emiſſion.

V. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Treaſurer of this State to redeem all ſuch of the bills of credit emitted by this State, commonly called Bills of the New Emiſſion, with any monies which now are in his hands, and not otherwiſe appropriated. That the ſaid Treaſurer ſhall, with all convenient ſpeed, cauſe an advertiſement to be publiſhed in one or more of the newſpapers printed in this State, requiring the holders of all ſuch bills to bring the ſame to him for redemption, on or before the fifteenth day of June next; and the intereſt of all ſuch bills as ſhall remain in circulation after the day laſt aforeſaid, ſhall ceaſe from and after the ſaid fifteenth of June.

And Commiſſioners to ſell the lands appropriated for their redemption.

VI. *And be it further enacted by the authority aforeſaid*, That the Commiſſioners of Forfeitures ſhall and may ſell at vendue the lands appropriated to the redemption of the ſaid bills, in like manner as is herein before directed.

Miles Sherbrook permitted to return to this State.

VII. *And be it further enacted by the authority aforeſaid*, That Miles Sherbrook, late of the city of New-York, merchant, be, and he is hereby permitted to return and remain within this State unmoleſted, until the Legiſlature ſhall make further or other proviſion in the premiſes, any law to the contrary notwithſtanding.

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## CHAP. LXXIV.

AN ACT *for the more effectual recovery of the arrears of county taxes, and other purpoſes therein mentioned.* Paſſed the 7th of April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That in all caſes where the Collector of any town or place ſhall have received any taxes or county rates, and not paid the ſame to the county Treaſurer, it ſhall be lawful for the Treaſurer of ſuch county, for the time being, and he is hereby authorized and required, to commence and proſecute a ſuit, for the recovery thereof, with coſts, in the name of the Treaſurer of ſuch county, againſt ſuch Collector, his executors or adminiſtrators in an action on the caſe, for monies received, to the uſe of ſuch county; in which ſuits it ſhall be ſufficient to ſet forth in the declaration, that the Collector is, or in his life time was indebted to the Treaſurer of ſuch county; in a certain ſum, for ſo much money by him, as Collector of ſuch town or place, before that time received, for the uſe of ſuch county; and being ſo thereof indebted, promiſed to pay the ſame, when required, to the Treaſurer of ſuch county; without ſetting forth the ſpecial matter: And no ſuch ſuit or action ſhall be abated or diſcontinued, by the death, reſignation or removal from office of any ſuch county Treaſurer; but the ſame ſhall, or may be proſecuted to effect, by his ſucceſſor in office.

County Treaſurers to proſecute delinquent Collectors.

II. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful, for the Superviſors of each of the reſpective counties in this State for the time being, or the major part of ſuch Superviſors reſpectively, to meet together at ſuch times and places as they may think proper, in their reſpective counties; and to examine what ſums remain unpaid of the ſeveral county taxes, in their reſpective counties, laid or aſſeſſed, ſince the firſt day of November in the year of our Lord one thouſand ſeven hundred and eighty, for the neceſſary and contingent charges of ſuch county; and where they find any ſum or ſums of money remain uncollected, on any ſuch tax, and the perſons or eſtates charged with the ſame are ſufficient to pay the ſame, they ſhall iſſue their warrant to the Collectors of the reſpective towns and places where ſuch ſums remain unpaid, for the collection thereof. And the reſpective Collectors, ſhall levy and collect all ſuch ſums, in the ſame manner and under the ſame penalties as they are authorized and required to collect the taxes for the neceſſary and contingent charges of ſuch county; and ſhall pay the ſame, to the Treaſurer of the county, at ſuch time as the ſuperviſors in their ſaid warrants ſhall direct. And if any Collector ſhall neglect his duty herein, he ſhall be chargeable with the monies ſo directed to be levied and collected, to be recovered in the manner aforeſaid, by the Treaſurer of the county for the time being, with coſts of ſuit. And further, that where the ſaid Superviſors ſhall find, that any deficiency of any of the ſaid taxes has happened in any town or place, by the inſolvency or the want of goods and chattels whereon to levy the ſaid tax, of any perſon or perſons in ſuch town or place, or by the inſolvency of the Collector, they ſhall add ſuch deficiency to the next tax of the like nature, to be laid upon the ſame town or place.

Superviſors to examine arrears of taxes.

III. *And be it further enacted by the authority aforeſaid,* That all and every ſum and ſums of money to be raiſed or recovered by virtue of this act, ſhall be applied in each county, as the Superviſors of ſuch county for the time being, or the major part of them ſhall direct.

When monies are recovered, how to be applied.

And whereas it hath been repreſented, that ſeveral Collectors of the public taxes to be raiſed by virtue of the act for raiſing monies by tax, paſſed the twenty ninth day April laſt, are proſecuted by county Treaſurers for neglecting to pay the taxes by them collected, as by law is directed; and whereas it appears to this Legiſlature, that ſome of the Collectors have become delinquent becauſe ſufficient time did not intervene, wherein to collect the taxes, between the delivery of the tax liſt, and the day appointed for paying the ſame into the county Treaſury.

Recital.

*Therefore,*

IV. *Be*

IV. *Be it enacted by the authority aforeſaid*, That it ſhall and may be la w ful for ſuch county Treaſurers, who ſhall have commenced any ſuch ſuit or ſuits, againſt any ſuch Collector or Collectors, to ſtay ſuch ſuit, or ſuits, in any ſtage thereof, until the firſt day of June next; and the Collectors reſpectively ſhall proceed to collect the arrears of the ſaid tax, or taxes, and pay the ſame into the treaſury of the county, on or before the firſt day of June next, in like manner, as they could or might have done on or before the firſt day of March laſt, as required in and by the ſaid act; and the treaſurer of ſuch county, ſhall pay the ſaid taxes ſo to be collected and paid into his hands, into the Treaſury of this State, within one month thereafter, any thing in the ſaid act to the contrary thereof in any wiſe notwithſtanding.

County Treaſurers to ſtay proſecutions againſt delinquent Collectors, &c.

## CHAP. LXXV.

AN ACT *to amend an act, entitled, "An act, ſupplementary to an act to appoint Commiſſioners to ſettle and adjuſt any differences which may ariſe between the proprietors of certain lots in the city of New-York, the buildings whereof were burnt in the year* 1776, *and for altering the ſtreets which heretofore were laid out adjoining to ſuch lots."* Paſſed the 7th of April, 1787.

WHEREAS the Commiſſioners named in the act aforeſaid, except Henry Remſen, are deſirous of being excuſed from acting in the premiſes. *Therefore,*

Preamble.

I. BE *it enacted by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That Thomas Randall, William Maxwell, David Brooks, Joſhua Sands, John M'Comb, and Jacobus Lefferts be, and they hereby are appointed Commiſſioners, in the place and ſtead of the perſons in the ſaid act named, except the ſaid Henry Remſen, for the purpoſes therein mentioned, who, together with the ſaid Henry Remſen, or any three of them, ſhall perform the duties and exerciſe the powers by the ſaid act preſcribed for, and given to the perſons therein named.

Commiſſioners appointed inſtead of thoſe decline acting.

## CHAP. LXXVI.

AN ACT *to amend an act, entitled, "An act for the Collection and Commutation of Quit Rents."* Paſſed the 11th of April, 1787.

WHEREAS ſundry circumſtances have intervened which have rendered it impoſſible for thoſe from whom quit rents were due, to diſcharge or commute for the ſame by the times limited in the act, entitled, "An act for the collection and commutation of quit rents," paſſed the 1ſt day of April, 1786. *Therefore,*

Preamble.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That it ſhall and may be lawful to and for the Treaſurer of this State, at any time between the paſſing of this act, and the firſt day of May, one thouſand ſeven hundred and eighty-eight, to take and receive from any perſon being a citizen of this State, or of any other of the United States, any ſum or ſums of money due and in arrear for quit rents, or any ſum or ſums of money in commutation for annual quit rents, in ſuch public ſecurities and certificates as are deſignated in the firſt and ſecond ſections of the ſaid act, and in the manner thereby directed; and that no proceſs ſhall be commenced by the ſaid Treaſurer, for the recovery of any quit rents which may be due or become due to the People of this State, until after the firſt day of May, one thouſand ſeven hundred and eighty-eight; any thing in the ſaid act to the contrary hereof notwithſtanding.

Further time given for payment of quit rent & commutation

Quit rents, &c. may be paid for ſhares of land.

II. *And be it further enacted by the authority aforeſaid*, That where quit rents ſhall be paid for ſuch ſhares of land as are deſignated in the third ſection of the ſaid act, or that ſuch ſhares ſhall be commuted for, the Treaſurer ſhall, upon ſuch payment, give the perſon making ſuch payment a receipt or certificate expreſſing the ſum ſo paid, and ſpecifying whether the ſame be for quit rents due and in arrear, or for quit rents and commutation both, and deſignating the patent, and the lot or lots for which ſuch payment is made; and if ſuch payment is for both arrears of quit rent and commutation, the lands ſo paid for ſhall never thereafter be ſubject to proceſs or ſale for any quit rents which may at any time become due from any other lot or lots in ſuch patent, and if ſuch payment is for arrears of quit rent only, then the lands ſo paid for ſhall not be ſubject to proceſs or ſale for any arrears of quit rent which may be due to the time of ſuch payment, from any other lot or lots in ſuch patent, any thing in the ſaid act to the contrary hereof notwithſtanding.

Recital.

And whereas tracts of land within this State, have been ſo divided and alienated, that many of the preſent owners and proprietors, hold leſs than an original proprietor's ſhares, and difficulties may ariſe as well with thoſe who may pay the quit rents and commute for their reſpective ſhares, as with the Treaſurer, to aſcertain ſuch ſhare: For remedy whereof,

Clauſe for remedy where lands are divided into ſmall lots.

III. *Be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for any three or more, of the preſent proprietors or owners of any ſuch patent or lands, by advertiſement to be put up and continued for ten days ſucceſſively, on any part of ſuch lands, to notify and require all owners and proprietors of lands within ſuch patent, to meet at a place certain within the ſame, and at a day certain to be expreſſed in ſuch advertiſement, ſuch day not to be aſſigned at leſs than twenty days from the date of ſuch advertiſement, and ſuch of the owners and proprietors as ſhall then meet, may proceed, by plurality of voices, to chuſe two Aſſeſſors and one Collector, which Aſſeſſors, ſo choſen, ſhall within twenty days thereafter, make an aſſeſſment roll of the ſeveral owners and proprietors of lands in ſuch patent, and ſhall enter in ſuch roll, the ſums reſpectively due for quit rents to the twenty-ninth day of September, one thouſand ſeven hundred and eighty ſeven, from each according to the proportion and ſhare which each ſhall have, hold, poſſeſs and enjoy within ſuch patent, ſo as that the whole ſhall make up and amount to the whole of the quit rents, which will be due to the people of the State, to the time herein before mentioned, and ſhall deſignate which ſhare or ſhares, have by forfeiture to the people of this State, become diſcharged of quit rent, and which ſhare or ſhares are entitled to remiſſion of quit rents, by this or the ſaid act paſſed the firſt day of April, 1786. And ſhall alſo ſpecify the amount of the commutation, for every ſhare or ſhares ſubject to preſent or future quit rents, to the end that ſuch as incline to commute, may be enabled to pay for the ſame to the Collector, and ſhall in ſeparate columns charge each ſhare or ſhares, ſubject to quit rents, and for which commutation may be made, with ſix per cent. to be paid in ſpecie on the amount of the quit next due, and on the amount of the commutation, five per cent. whereof to go as a compenſation to the Collector, for his trouble in collecting and paying the ſame to the Treaſurer of this State, and one per cent. thereof to be paid to the Aſſeſſors for their trouble in the execution of their office. *And further*, that the ſaid Aſſeſſors, before they begin ſuch aſſeſſment, ſhall take an oath before a Juſtice of the Peace, well, truly, impartially, and in due proportion, according to the beſt of their underſtanding, to aſſeſs and rate the ſeveral owners and proprietors of ſuch patent for which they are choſen Aſſeſſors. *And further*, that the ſaid Aſſeſſors ſhall within ten days next after completing ſuch aſſeſſment roll, and having ſigned the ſame and put their ſeals thereto, deliver the ſame unto the Collector ſo choſen as aforeſaid, which ſaid Collector ſhall forthwith collect the ſeveral ſums charged in ſuch aſſeſſment, for arrears of rent and for commutation, if the party or parties are willing to pay ſuch commutation, in ſuch public ſecurities as are deſignated in the ſaid act, paſſed the 1ſt day of April 1786, together with the ſaid ſix per cent. in ſpecie on the arrears of quit rent, and on ſuch commutation as ſhall be paid, ſo that he pay the ſame (except the ſix per cent. as aforeſaid) to the ſaid Treaſurer, on or before the firſt day of May, one thouſand ſeven hundred and eighty-eight, and if any of the ſaid owners or proprietors of ſuch patent ſhall refuſe, neglect, or delay to pay his or her ſhare or proportion

portion of the ſaid rate or aſſeſſment of quit rent, and the ſaid five or ſix per cent. as the caſe may be, then it ſhall and may be lawful for ſuch Collector, and he is hereby required to collect and levy the ſame by diſtreſs and ſale of any goods and chattels, if any can be found, on the ſhare or ſhares ſo charged, and for whlch payment has been refuſed, neglected or delayed, in the ſame manner as the Collectors of public taxes are or may be empowered by law to do, or to proſecute the defaulter or defaulters for the ſame before any one Juſtice of the Peace within the county where ſuch lands lay, who is hereby authorized to hear and determine the ſame. And further, if ſuch Collector ſhall not find goods and chattles on the lands in ſuch ſhare or ſhares whereon to make diſtreſs, or ſhall not be able to recover ſuch rate or aſſeſſment for quit rents before ſueh Juſtice, then ſuch Collector ſhall at the time of his paying the public ſecurities by him collected, unto the ſaid Treaſurer, deliver the aſſeſſment roll to the ſaid Treaſurer, together with an abſtract of the names of ſuch as have paid the quit rents only, and the amount ſo paid by each, together with the names of ſuch whoſe lands were diſcharged from quit rents as aforeſaid, and another abſtract of ſuch as have paid both the quit rents and the commutation, and the amount ſo paid by each, and a third abſtract containing the names of the defaulters, if any there be, and the ſums charged to each for quit rents, all which abſtracts ſhall be ſworn to as juſt and true, by the ſaid Collector, and the ſaid Treaſurer ſhall thereupon, give a proper receipt at the foot, or on the back of the reſpective abſtracts for which he ſhall have received the amount for quit rents, or for quit rents and commutation both, as the caſe may be, which receipt for quit rents ſhall exonerate the perſons named in the abſtract from any demand for quit rents, to the time for which they were paid; and the lands ſo paid for, ſhall not be ſubject to proceſs or ſale for any quit rents then due, from any one or more defaulters, and the receipt for quit rents and commutation both, ſhall forever thereafter exonerate and diſcharge the lands for which they ſhall have been paid, from any demand on the part of the people of this State for quit rents; nor ſhall proceſs iſſue, or any ſale be hereafter made of ſuch land ſo paid or commuted for, on account of any quit rents which may be due from any other lands in ſuch patent, any thing in the ſaid act to the contrary hereof notwithſtanding.

Recital.

And whereas many of the inhabitants of this State have during the late war been driven from their habitations, by the incurſions of the enemy, and thereby have been greatly diſtreſſed. *Therefore*,

Who exempted from quit rents.

V. *Be it further enacted by the authority aforeſaid*, That any perſon or perſons having been ſo driven off as aforeſaid, ſhall be and hereby are diſcharged from paying as well all future quit rents as thoſe which have already become due to the People of this State, for ſo much land only, and no more, as was included in the farm whereon ſuch perſon or perſons actually reſided, and from which he or ſhe were driven as aforeſaid.

Proviſo.

*Provided*, That any perſon claiming ſuch exemption, ſhall produce a certificate, ſigned by one of the Judges of the Court of Common Pleas of the county wherein ſuch perſon did reſide, ſpecifying that he or ſhe was obliged to quit his or her farm, on account of the war, and alſo ſpecifying the number of acres which it ſhall appear to ſuch Judge were contained in ſuch farm; and provided ſuch certificate ſhall not intitle any perſon to a remiſſion for more than one hundred and fifty acres. And provided alſo that ſuch certificate ſhall be delivered to the Aſſeſſors herein before mentioned, where aſſeſſments ſhall be made previous to the making of ſuch aſſeſſment, or to the ſaid Treaſurer where quit rents ſhall be made without aſſeſſment.

Treaſurer to tranſmit to County Clerks a ſtate of quit rents due in their counties

VI. *And be it further enacted by the authority aforeſaid*, That the Treaſurer of this State ſhall, and he is hereby required as ſoon as may be after the paſſing of this act, to tranſmit to the reſpective clerks of the ſeveral counties within this State (except to the clerks of the city and county of New-York, the counties of Kings, Queens, and Richmond, a ſchedule of all the quit rents due or to become due, within the county of which he is Clerk, to the twenty ninth day of September next, ſpecifying the date of every patent, the names of the patentees, and the quanty of land contained in each patent, where a quit rent is reſerved per hundred

dred acres, and the anual quit rent where a quit rent in groſs is reſerved, and where quit rents are reſerved in kind, to ſpecify the value in money, as by the ſaid act herein refered to is directed.

Parts of the former act repealed.

VII. *And be it further enacted by the authority aforeſaid,* That the tenth, eleventh, and fourteenth ſections of the ſaid act, and the preamble to the ſaid fourteenth ſection are hereby repealed.

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## CHAP. LXXVII.

AN ACT *for raiſing Monies by tax,* Paſſed the 11th of Arpil, 1787.

£.50,000 to be raiſed by tax within this State.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That there ſhall be raiſed and levied within this State, the ſum of fifty thouſand pounds.

Quotas of the ſeveral counties.

That the quota of the city and county of New-York, of the ſaid ſum, ſhall be thirteen thouſand pounds.

The quota of the city and county of Albany, ſhall be five thouſand five hundred pounds.

The quota of the county of Columbia, ſhall be two thouſand four hundred pounds.

The quota of the county of Dutcheſs, ſhall be five thouſand pounds.

The quota of the county of Ulſter, ſhall be three thouſand four hundred pounds.

The quota of the county of Orange, ſhall be two thouſand five hundred pounds.

The quota of the county of Weſtcheſter, ſhall be three thouſand four hundred pounds.

The quota of the county of Suffolk, ſhall be four thouſand five hundred pounds.

The quota of Queens county, ſhall be four thouſand five hundred pounds.

The quota of Kings county, ſhall be two thouſand three hundred pounds.

The quota of Richmond county, ſhall be one thouſand three hundred pounds.

The quota of the county of Montgomery, ſhall be one thouſand ſix hundred pounds.

And the quota of the county of Waſhington, ſhall be ſix hundred pounds.

Superviſors when to meet and cauſe their quotas to be aſſeſſed & collected.

II. *And be it further enacted by the authority aforeſaid,* That the Superviſors of the ſeveral counties, or the majority of them, ſhall reſpectively meet, on the firſt Tueſday in September next, and cauſe the ſaid reſpective quotas aſſigned to their ſeveral counties to be raiſed, aſſeſſed, levied and collected, in like manner as the contingent charges of ſuch counties are uſually raiſed, aſſeſſed, levied and collected; that the reſpective Collectors ſhall pay the ſums by them ſeverally collected, to the reſpective county Treaſurers, on or before the firſt Tueſday of March next, and that the county Treaſurers ſhall pay the reſpective quotas of their counties, to the Treaſurer of this State, on or before the firſt Tueſday in April, in the year of our Lord one thouſand ſeven hundred and eighty-eight.

Duty, &c. of the ſeveral officers.

III. *And be it further enacted by the authority aforeſaid,* That the ſeveral Judges, Juſtices of the Peace, county Treaſurers, Superviſors, Aſſeſſors and Collectors, ſhall reſpectively perform the like duties, exerciſe the like powers, be entitled to the like rewards and be ſubject to the ſame penalties, for neglect of refuſal to diſcharge ſuch duties as are directed and preſcribed in and by the act entitled, "An act for raiſing monies by tax," paſſed the twenty ninth day of April laſt. Provided always that the aſſeſſors ſhall ſpecify and rate the real and perſonal eſtate by them to be rated, in ſeperate and diſtinct columns in the aſſeſſment rolls, any thing in the ſaid act to the contrary hereof notwithſtanding.

Aſſeſſors when to meet, &c.

IV. *And be it further enacted by the authority aforeſaid,* That the aſſeſſors of the ſeveral cities, towns, manors, diſtricts and precincts, in the ſaid cities, and counties reſpectively, ſhall meet on the laſt Tueſday in September next, to make the aſſeſſments in purſuance of this act, and ſhall complete ſuch aſſeſſments within twenty days after ſuch meeting.

V. *And*

V. *And be it further enacted by the authority aforesaid*, That if any assessor shall neglect or refuse to perform any of the duties required of him by this act; such assessor so neglecting or refusing to perform any such duty shall forfeit to the People of this State, the sum of fifty pounds, to be recovered in the manner directed in and by the eleventh section of the said act entitled, "An act for raising monies by tax," passed the twenty ninth day of April last.

Penalty on assessors for neglect of duty.

## CHAP. LXXVIII.

AN ACT *for the more easy partition of a tract of land called the Oneida purchase*, Passed the 11th of April, 1787.

Preamble.

That the proprietors of the patent have prayed licence to make a division thereof agreeable to a former survey.

WHEREAS several of the proprietors of a certain tract of land, commonly called the Oneida purchase, situate on the south side of the Mohawk river near the German Flatts in the county of Montgomery, and granted to William Bayard and fifty four other persons on the twelfth day of June, one thousand seven hundred and seventy one, have by their petition represented to the Legislature, that the said tract was surveyed and laid out in lots, previous to the late war, by Thomas Palmer and Beriah Palmer, at the request of all the proprietors of the said tract, but that no division having then been actually made, they nowfind that by reason of the attainder of some of the proprietors, and the death or removal of others, it is altogether impractible to procure a division of the said tract, without a resurvey thereof, which will be attended with great trouble and expence, unless the Legislature should think fit to relieve them in the premises.

And whereas it appears to the Legislature, that relief ought to be granted to the said petitioners. *Therefore*,

Certain persons appointed commissioners to make partition of the said patent, and how.

BE it Enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That Evert Bancker, John Ramsay, and Thomas Randall, shall be, and hereby are appointed Commissioners to make partition of the said tract, agreeable to the survey so made thereof, by the said Thomas Palmer and Beriah Palmer, and for that purpose shall cause an advertisement to be published for at least four weeks, in one or more of the newspapers priuted in the city of New-York, and one or more of the newspapers printed in the city of Albany, appointing a particular time and place at which the several lots in the said tract will be ballotted for, and requiring all persons interested, then and there to attend; at which time and place the said Commissioners having made as many tickets as there are patentees mentioned in the said patent, with the name of one of the said patentees written on each ticket, and also half as many tickets as there are lots into which the said tract has been divided by the said survey, with the numbers of two of the said lots written on each ticket, so coupled as to make each share as nearly equal as may be; the tickets of names shall be put in one box, and the numbered tickets in another box, and such person or persons as the said Commissioners shall appoint, shall proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed until all the tickets are drawn; whereupon the several lots bearing the numbers written on the tickets drawn next after the drawing of the ticket on which the name of the patentee shall be written, shall be the separate and divided property of the person or persons legally entitled to the share of such patentee; of which ballotting, and all other proceedings in the said partition, the said Commissioners shall make a full and fair entry in a book, one copy whereof, certified under the hand of the said Commissioners, or the hands of a majority of them, shall be filed in the office of the Secretary of this State; and another copy, certified in like manner, in the office of Clerk of the county of Montgomery; either of which same books, or an exemplified or certified copy thereof, shall be good evidence of such partition; which partition, so made as aforesaid, shall be and hereby is declared valid and effectual in law.

Commissioners after partition to make a return of their proceedings into the secretary's office, and another into the office of the county clerk.

Certain ſhares to be the property of the State.

*And further*, That the lots which by ſuch ballotting ſhall be drawn for the ſhare or ſhares, part or parts of the ſaid tract of land which by the attainder or conviction of any perſon or perſons whomſoever, belongs to, and is veſted in the people of this State, ſhall be the ſeparate ſhare or ſhares, lot or lots, of the people of this State, and be veſted in them, in as full and ample manner as if ſuch partition had been had previous to ſuch attainder or conviction: And that it ſhall and may be lawful to and for the Commiſſioners of Forfeitures in the weſtern diſtrict, to ſell, at public vendue, ſuch lot or lots in the ſaid tract of land, as by ſuch partition ſhall fall to the ſhare or ſhares of the People of this State, in the ſame manner as if ſuch lands had been divided, and held in ſeveralty previous to ſuch attainder or conviction.

## CHAP. LXXIX.

AN ACT *to revive and amend the Acts therein mentioned, relative to a Juriſdiction Line between this State and the Commonwealth of Maſſachuſetts.* Paſſed the 11th of April, 1787.

Certain acts relative to a juriſdiction line between this State and Maſſachuſetts, revived.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That the act, entitled, "An act to authoriſe the United States in Congreſs aſſembled, to appoint "Commiſſioners to complete the running a certain line of juriſdiction therein mentioned, "between this State and the Commonwealth of Maſſachuſetts," paſſed the 7th day of March, 1785, and the act ſupplementary to the ſaid act, paſſed the 29th of April, 1786, be, and they are hereby reſpectively revived, and declared of full force and effect, except ſo far forth as reſpects the time limited by the ſaid firſt recited act, in which the Commiſſioners therein mentioned, were to perform and complete the ſurvey thereby directed.

Commiſſioners powers.

II. *And be it further enacted by the authority aforeſaid*, That the ſaid Commiſſioners are hereby authoriſed and impowered, at any time within the term of one year from the 7th day of March, 1787, to do and perform all and ſingular the ſervices of them required by the ſaid acts, or either of them.

An act relative to ſaid line paſſed this ſeſſion ſuſpended.

III. *And be it further enacted by the authority aforeſaid*, That the act, entitled, "An act to complete the running a certain line of juriſdiction therein mentioned, "between this State and the Commonwealth of Maſſachuſetts," paſſed at the preſent meeting of this Legiſlature is hereby ſuſpended until the 8th day of March, 1788, except ſo far forth as reſpects the appointment of of Simeon De Witt, Eſquire, as one of the Agents on the part of this State.

## CHAP. LXXX.

AN ACT *to erect the Settlements of Woodſtock, and Great and Little Shandaken, in Ulſter County, into a ſeparate Townſhip.* Paſſed the 11th of April, 1787.

Preamble.

WHEREAS in and by a law of this State, entitled, "An act for encreaſing "the number of Aſſeſſors throughout this State," it is enacted and declared, That as well for the purpoſe of aſſeſſments, as all military purpoſes whatſoever, the ſettlements of Woodſtock, and Great and Little Shandaken, in the county of Ulſter, ſhould be thereby ſeverally annexed to, and made parts of the townſhip of Hurley. And whereas the inhabitants of the ſame reſpective ſettlements, by their petition, have repreſented to the Legiſlature, that they live remote from other inhabitants, and have no town officers to regulate the roads, or to compel any perſons to work on them, and that they are ſubject to other inconveuiencies, by means whereof other perſons are diſcouraged from ſettling amoug them; and thereupon praying to be erected into a diſtrict,

ſtrict, in their ſaid petition deſcribed and named; and it appearing to the Legiſlature reaſonable that the prayer of the ſaid petition be complied with. *Therefore,*

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That ſo much of the ſame three ſettlements of Woodſtock, and Great and Little Shandaken, as is contained in the boundaries herein after deſcribed, ſhall be, and hereby are erected into a ſeparate townſhip, by the name of the townſhip of *Woodſtock*; that is to ſay, Beginning at the head of Cartwright's kill, being the northern boundary line of the county of Ulſter; and from thence along ſaid line northweſterly towards the lake Otſiantha, to the eaſterly bounds of lot number twenty, belonging to the heirs of Leonard Lewis; thence along the ſaid bounds, ſouth thirty three degrees weſt (as the trees are marked) about fourteen miles, to the ſoutheaſterly corner of the ſaid lot; thence the ſame courſe continued about eight miles, to the bounds of Gulian Verplanck's Land, in lot number ſeven; thence along his bounds, ſoutheaſterly, about eighteen miles, to the bounds of Marble-Town; thence along the ſaid bounds, northeaſterly, to the Eſopus-Kill; thence eaſt to the weſtern bounds of Kingſton; thence along the ſaid bounds (and the line ſettled and run by the arbitrators) northerly to the aforeſaid Cartwright's-Kill; and thence up the ſame to the head thereof.

Certain parts of Woodſtock, great & little Shandaken herein deſcribed, erected into a townſhip by the name of Woodſtock.

II. *And be it further enacted by the authority aforeſaid,* That the inhabitants of the ſaid townſhip of *Woodſtock*, ſhall be and hereby are declared to be entitled to aſſemble and hold annual town meetings within the ſame townſhip, and by a plurality of voices to elect one Superviſor, one town clerk, three aſſeſſors, one Collector, two Conſtables, two Overſeers of the Poor, three Commiſſioners of the highways, and ſo many overſeers of the highways Fence viewers and Pound Maſters, as to the freeholders and inhabitants of the ſame townſhip ſo met, ſhall ſeem neceſſary and convenient; whichofficers when ſo elected, ſhall have the like powers and authority, and be ſubject to the like rules, regulations and penalties, as are by lawpreſcribed for ſuch officers reſpectively, in the other precincts in the ſame county. That the annual elections be held at the houſe of Captain Elias Haaſbrouck, in little Shandaken aforeſaid, until otherwiſe determined by a majority of votes, of the taxable perſons in the ſame townſhip, in legal town meeting aſſembled, or it be otherwiſe provided for by law.

Inhabitants to hold town meetings for electing officers.

Powers of ſuch officers.

And whereas it may happen that the line of the ſaid townſhip may interſect the houſes or farms of ſome of the inhabitants of the ſaid townſhip, whereby inconveniences may ariſe in the aſſeſſment of taxes. *For remedy whereof.*

Inconveniencies may ariſe from the lines interſecting farms.

III. *Be it further enacted by the authority aforeſaid,* That wherever the line of the ſaid townſhip ſhall interſect a farm, the poſſeſſor of ſuch farm ſhall pay all his taxes in which ever townſhip or precinct his dwelling houſe ſhall be; but if the ſaid line ſhall interſect any dwelling houſe, then the poſſeſſor ſhall be taxed for both houſes and farm in the townſhip or precinct ſo adjoining the townſhip of Woodſtock aforeſaid.

Clauſe for remedy whereof.

IV. *Provided always, And be it further enacted by the authority aforeſaid,* That nothing in this act contained ſhall be conſtrued, deemed or adjudged to extend, benefit or eſtahliſh the claims or poſſeſſions of any patentees, their or any of their heirs ſucceſſors or aſſigns in any patent or grant of land, or any part thereof, lying within, or next adjoining the townſhip of Woodſtock aforeſaid, or any part thereof, or to defeat or prejudice, or in any manner to alter or affect the ſame. And further that neither this act, nor any thing herein contained ſhall be offered as evidence in favour of the claims of any or either of the parties, in any ſuit or ſuits whatſo-ver reſpecting the tittle of lands; but only to prove the line of the townſhip of Woodſtock, by this act eſtabliſhed.

This act not to eſtabliſh the claims of patentees lying in or adjoining to the townſhip.

V. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the inhabitants of the townſhip of Woodſtock to aſſemble for the preſent year at the dwelling houſe of the ſaid Elias Haaſbrouck in little Shandakin on the firſt Tueſday in June next, and by plurality of voices, elect town officers in like manner as is directed in and by the ſecond clauſe of this act, any thing in this act to the contrary notwithſtanding.

Inhabitants where to aſſemble for the preſent year.

CHAP.

## CHAP. LXXXI.

AN ACT *impoſing duties on Goods and Merchandize imported into this State.*
Paſſed the 11th of April, 1787.

Certain articles ſubject to the duties in this act mentioned, after the firſt of Auguſt next.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That from and after the firſt day of Auguſt next, all ſuch goods and merchandize, as are herein after enumerated and mentioned, which ſhall be imported or brought into this State, by land or water, ſhall be ſubject to the duties and impoſts herein after mentioned, *that is to ſay.*

Articles enumerated.

Every gallon of molaſſes, one penny,
Every gallon of diſtilled ſpirituous liquors, four pence,
Every gallon of madeira wine, eight pence,
Every gallon of wines other than madeira wine, four pence,
Every gallon of linſeed oil, eight pence,
Every gallon of porter, ale or beer, ſix pence,
Every buſhel of malt, four pence,
Every buſhel of ſalt, water meaſure, ſix pence,
Every pound of ſnuff, ſix pence,
Every pound of manufactured tobacco, three pence,
Every pound of loaf or lump ſugar, two pence,
Every pound of other ſugar, a half penny,
Every pound of coffee, one penny,
Every pound of Chocolate, three pence,
Every pound of pepper, three pence,
Every pound of pimento or alſpice, one penny,
Every pound of ſteel, three farthings,
Every pound of dreſſed leather, four pence,
Every pound of tanned leather, three pence,
Every pound of ſpikes and every pound of nails, commonly called three penny nails, and of all nails of a larger ſize one penny,
Every pound of bohea tea, imported directly from Aſſia, in ſhips or veſſels of the built of this State, or whereof three fourth parts are owned by citizens reſiding in this State, three pence.
On every pound of bohea tea, otherwiſe imported, four pence,
Every pound of tea of a ſuperior quality, imported directly from Aſia, in ſhips or veſſels of the built of this State, or whereof three fourth parts are owned by citizens reſiding in this State, ſix pence,
Every pound of tea of a ſuperior quality otherwiſe imported, eight pence,
Every pound of cheeſe, four pence,
Every pound of ſtarch, or hair powder, four pence,
Every hundred weight of cordage, four ſhillings,
Every hundred weight of bar iron, four ſhillings,
Every pound of raiſins, currents, almonds, prunes or figs, one penny.
Every hundred weight of iron hollow ware, ſix ſhillings,
Every hundred weight of nail rods, four ſhillings,
Every dozen bottles of wine, in bottles commonly called quart bottles, and in that proportion for all wines in bottles, two ſhillings.
Every dozen bottles of malt liquors in bottles, commonly called quart bottles, and in that proportion for all bottled malt liquors, one ſhilling and ſix pence.
Upon carriages of pleaſure from a foreign port as follows.
Every coach, chariot or poſt chaiſe, or coach chariot or poſt chaiſe box, fifteen pounds.
Every other four wheeled carriage of pleaſure, eight pounds.
Every two wheeled carriage of pleaſure, four pounds,
Every clock, twenty ſhillings,

Every

Every dozen of Scyths, ſiths or axes, twelve ſhillings,
Every ſaddle, ten ſhillings;
Every dozen of ſaddle trees, twelve ſhillings,
Every pair of womens or childrens ſhoes or ſlippers, of ſtuff or morocco leather, ſix pence,
Every pair of womens ſilk ſhoes, one ſhilling,
Every pair of mens or womens leather ſhoes or ſlippers, ſix pence,
Every pair of boots, four ſhillings,
Every pair of boot legs, one ſhilling and ſix pence,
Every dozen packs of playing cards, four ſhillings,
Every pair of wool or cotton cards, ſix pence,

Certain articles at ſeven pounds ten per cent. ad valorem

And the following articles at and after the rate of ſeven pounds ten ſhillings per centum, *ad valorem*, to be computed on the prime coſt.

Anchovies, olives, capers, horſe harneſs, briddles, ſtirrup irons, briddle bits, Pictures with or without frames, paper hangings, pewter and block tin hollow ware, pantiles, and all ſorts of earthen and glaſs ware, china ware, writing paper, blank books, quills, bruſhes, horn combs, and all other articles made wholly of horn, plane ſtocks, and all kinds of manufactured tools of wood, mens and womens hats, (excepting wool hats) foreign marble, and cabinet and joiners work.

Thoſe at the rate of five pounds ten.

And the following articles at and after the rate of five pounds *per centum ad valorem*, to be computed on the prime coſt. *That is to ſay.*

Beef, pork, butter, candles, ſoap, anchors, all utenſils made in the whole or in part of copper, tin or braſs, bellows, ſhovels and ſpades, ſad irons, ſcrew auguers, frying pans, drugs and medicines, flour of muſtard, white rope, twine and white lines.

Rates of goods not ſpecified.

And all other goods and merchandize not herein before enumerated and mentioned at and after the rate of two pounds ten ſhillings *per centum ad valorem*, to be computed upon the prime coſt, excepting raw hides, whale and fiſh oil, mahogany, logwood, lignum vitæ, nicaragua wood, red wood, fuſtick, and all other dye woods, ſheep's and cotton wool, whale bone, beaver, peltry, furs, deer ſkins, woad, madder, cochineal, rocou, bees wax, and eliphants teeth, and all goods and merchandize of the growth, production and manufacture of any of the United States of America.

What goods ſubject to additional duties.

II. *And be it further enacted by the authority aforeſaid*, That all goods and merchandize, which ſhall be imported or brought into this State, after the ſaid firſt day of Auguſt next, in any ſhip or veſſel, not built within any of the United States, ſhall be ſubject to the following additional duties, that is to ſay, on all the herein before enumerated articles, other than thoſe ſubject to a duty *ad valorem*, at and after the rate of one fourth part of the duties in and by this act impoſed on ſuch articles reſpectively; and on all goods and merchandize ſubject to a duty *ad valorem*, the further ſum of two pounds ten ſhillings *per centum ad valorem*, to be computed on the prime coſt.

Collector's duty in the above caſe,

III. *And be it further enacted by the authority aforeſaid*, That in order to enable the Collector to determine whether any ſhip or veſſel in which goods or merchandize are imported into this State, is of the built of this State, or any other of the United States, it ſhall and may be lawful to and for the Collector, to demand from the maſter or other perſon having the command of ſuch ſhip or veſſel the regiſter thereof; and in caſe any doubts ariſe on the inſpection of ſuch regiſter, whether ſuch ſhip or veſſel is of the built of this State, or of any other of the United States, it ſhall and may be lawful to and for the Collector, to examine as well the maſter of ſuch ſhip or veſſel, or other perſon having the command, as any other perſon or perſons whom he ſhall think proper, on oath touching and concerning the built of ſuch ſhip or veſſel.

Maſters of veſſels to make report, &c.

IV. *And be it further enacted by the authority aforeſaid*, That the maſter or perſon having the command of any ſhip or veſſel which, after the ſaid firſt day of Auguſt next, ſhall come into, or arrive at any port within this State, within twenty four hours after ſuch arrival, ſhall report to the Collector of the port, his arrival, and the place from whence the ſhip or veſſel laſt ſailed; and that after ſuch

report is made the ſaid ſhip or veſſel may remain in port forty eight hours, without making entry of her cargo, at or before the expiration of which time, the ſaid maſter or perſon having the command of ſuch ſhip or veſſel, ſhall deliver to the Collector of the port, an exact and true manifeſt under his hand, of all and every ſuch bales, cheſts, caſks, trunks, caſes, boxes or other packages, and all ſuch goods and merchandize ſtowed in bulk in ſuch ſhip or other veſſel, and which ſuch ſhip or veſſel had on board at the time ſhe left the port from which ſhe laſt ſailed, or at any time ſince; and which manifeſt ſhall particularly ſpecify the mark or marks, number or numbers of ſuch bales, caſks, cheſts, trunks, caſes, boxes or other packages, and the name or names of the perſon or perſons, who is or are the owner or owners, conſignee or conſignees, of ſuch bales, caſks, cheſts, trunks caſes, boxes or other packages, and ſuch goods or merchandize, ſtowed in bulk in ſuch ſhip or veſſel as aforeſaid; and the maſter or perſon commanding ſuch ſhip or veſſel ſhall, upon exhibiting ſuch manifeſt to the Collector, take and ſubſcribe the following oath (which oath the Collector is hereby impowered to adminiſter, that is to ſay.——

Maſter's oath when he exhibits a manifeſt.

I ——— ——— do ſwear in the preſence of Almighty God, that the manifeſt now by me delivered, contains a juſt and true account of the cargo on board of the veſſel called the ——— under my command; and that no more or other bales, caſks, cheſts, trunks, caſes, boxes or other packages or goods than thoſe mentioned in the ſaid manifeſt, have been on board of the ſaid veſſel at any time ſince ſhe left the port of ——— and that the ſaid port was the laſt from which ſhe ſailed,

Which firſt blank ſhall be filled with the name of the perſon having the command of the veſſel, the ſecond with the name of ſuch veſſel, and the third with the name of the port from which ſhe laſt ſailed.

Proviſo.

*Provided always*, That if after the ſailing of ſuch veſſel from ſuch laſt port, any part of the cargo thereof ſhall have been thrown overboard or loſt by reaſon of ſtreſs of weather, or other unavoidable accident or cauſe, it ſhall be lawfull for ſuch maſter, or perſon having the command of ſuch ſhip or veſſel, to declare ſuch diſaſter or misfortune, in the manifeſt to be by him delivered as aforeſaid, ſpecifying the quantity and kinds of goods, as near as may be ſo thrown overboard or otherwiſe loſt; and thereupon the Collector to whom ſuch manifeſt is delivered, ſhall inſert in the oath by him adminiſtered, immediately after the name of the port, the following clauſe, "except the goods therein declared to have been loſt ſince ſhe left the ſaid port, which goods were to the beſt of my knowledge *bona fide*, loſt in the manner therein ſpecified."

Sea ſtores exempt from duty.

V. *And be it further enacted by the authority aforeſaid*, That ſuch liquors, as are intended for ſea ſtores, for any maſter or commander, of any ſhip or veſſel, and actually on board of ſuch veſſel, not exceeding the quantity of forty gallons, ſhall be exempted from duty.

Proceedings before goods are landed.

VI. *And be it further enacted by the authority aforeſaid*, That after report and manifeſt in manner herein before mentioned, have been made and delivered to the Collector, of any ſhip or veſſel which ſhall after the firſt day of Auguſt next, come into any of the ports of this State, and of the cargo on board, every perſon having goods or merchandize on board of ſuch ſhip or veſſel, ſhall, before the ſame, or any part thereof, ſhall be landed, put on ſhore, or unladed, exhibit to the Collector of the port, the original invoice, or an account of the ſaid goods or merchandize and ſhall take the oath herein after mentioned; which oath the Collectors reſpectively are authorized to adminiſter, that is to ſay,

I ——— ——— do ſwear in the preſence of Almighty God, that the paper now by me exhibited to the Collector of the port of ——— contains to the beſt of my knowledge and belief a true invoice or account of all the goods or merchandize contained in the reſpective bales, caſks, cheſts, trunks, caſes, boxes, or other packages therein mentioned, and of all the goods ſtowed in bulk on board of the ſhip or veſſel called the ——— owned by or conſigned to me, or under my charge, and alſo contains a true account of the price or prices at which the ſaid goods or merchandize

dize have been *bona fide* purchaſed or charged ; and that if any goods or merchandize, other than thoſe mentioned in the ſaid invoice or account, now by me exhibited to the ſaid Collector, ſhall be contained in any of the ſaid bales, caſks, cheſts, trunks, caſes, boxes, or other packages, or if I ſhall diſcover that there are more goods or merchandize ſtowed in bulk, owned by, or conſigned to me, or under my charge, than in the ſaid invoice or account is mentioned, or if I ſhall at any time hereafter receive any other invoice than that which I now produce, of the ſaid goods or merchandize, I will forthwith, after diſcovering ſuch goods or merchandize, or receiving ſuch invoice, deliver an account thereof, to the Collector of the port of ———.

How goods may be entered for exportation.

VI. *And be it further enacted by the authority aforeſaid*, That if any ſhip or veſſel ſhall arrive at, or come into any of the ports of this State, having on board goods or merchandize, ſubject to any duty by this act, deſtined for any port or place out of this State, it ſhall be lawful for the perſon having the command of ſuch ſhip or veſſel, or the owner or conſignee of ſuch goods or merchandize, at the time of delivering the manifeſt aforeſaid, to enter the ſame for exportation, particularly ſpecifying the ſame ; and the goods or merchandize ſo entered for exportation, may afterwards be exported in the ſame veſſel, or in any other, but without having been landed, to any port or place out of this State, free from the ſaid duties ; Provided that ſuch goods and merchandize ſhall be exported in the original bales, caſks, cheſts, trunks, caſes, boxes, or other packages, and ſhall not be removed from one ſhip or veſſel to another, without the preſence of ſome officer appointed by the Collector of the port, to ſuperintend ſuch removal ; and provided further, that the perſon having the command of ſuch ſhip or veſſel ſhall, prior to the departure of the ſaid goods or merchandize out of this State, take an oath to be adminiſtered by ſuch Collector, in the words following ;

I —— ——, in the preſence of Almighty God, do ſwear, that none of the goods or merchandize imported in the veſſel under my command, entered for exportation, other than thoſe whereof notice hath been given to the Collector of the port, and a permit obtained for landing the ſame, have been directly or indirectly landed or put on ſhore within this State ; and that the ſaid goods and merchandize, to the beſt of my knowledge and belief, are now on board the ſhip or veſſel called the ———, about to depart from this State, and are not intended to be landed within this State, or in any other, for the purpoſe of being again brought within this State. And the owner or conſignee of ſuch goods or merchandize, if other than the perſon having the command of ſuch veſſel, ſhall alſo take an oath to be adminiſtered by ſuch Collector in the words following,

I —— ——, do ſwear, in the preſence of Almighty God, that the goods and merchandize imported in the ſhip or veſſel called the ———, owned by, or conſigned to me, and which were entered for exportation, other than thoſe for which a permit to land hath been ſince obtained, are, to the beſt of my knowledge and belief, now on board the ſhip or veſſel called the ———, about to depart from this State ; and that the ſaid goods or merchandize are not intended, directly or indirectly, to be landed within this State, or elſewhere, for the purpoſe of being brought within this State. And provided laſtly, that it ſhall be lawful for the Maſter, or perſon having the command of ſuch veſſel, or the owner or conſignee of the goods and merchandize on board, or of any part thereof, at any time within ten days after the day of the arrival of ſuch veſſel, to enter for importation, any goods or merchandize, before entered for exportation ; but it ſhall not be lawful, at any time after the expiration of the ſaid ten days, to enter for importation, or land any part of ſuch goods or merchandize ſo before entered for exportation. And if ſuch goods or merchandize ſo entered for exportation, ſhall, without a permit for that purpoſe from the Collector, at any time after ſuch entry for exportation, be landed within this State, or elſewhere, and brought within this State, without paying, or ſecuring the payment of the duties thereupon, ſuch goods or merchandize ſhall be forfeited to the People of this State. And in caſe ſuch goods or merchandize, to the value of fifty pounds or upwards, ſhall be ſo landed from on board any ſhip or veſſel, lying in any port or harbonr of this State, ſuch ſhip or veſſel ſhall alſo be forfeited to the People of this State.

VII. *And*

Penalty for refuſing to make report and manifeſt.

VII. *And be it further enacted by the authority aforeſaid*, That if any maſter or other perſon having the command of any veſſel which ſhall come into any of the ports of this State, after the ſaid firſt day of Auguſt next, and ſhall neglect or refuſe to make a report of the arrival of ſuch veſſel, or to deliver a manifeſt of the cargo on board, in the manner and within the times herein before, for thoſe purpoſes reſpectively mentioned, or to take the oath preſcribed as aforeſaid, every ſuch maſter or perſon having command as aforeſaid, ſhall forfeit the ſum of one hundred pounds, for each ſuch neglect or refuſal, and at the rate of twenty pounds for each day that either of the ſaid ſeveral matters ſhall be delayed, beyond the time for that purpoſe limited.

Duties on goods of ſmall value, to be paid before landing.

VIII. *And be it further enacted by the authority aforeſaid*, That when the duties upon any parcel of goods or merchandize, to be entered at the Cuſtom Houſe, by any merchant, factor or other perſon, does not exceed the ſum of twenty pounds, the ſame ſhall be paid to the Collector before a permit for landing ſhall be granted; but if the duties on the goods ſpecified in any invoice or account, to be exhibited as aforeſaid, exceed the ſaid ſum of twenty pounds, the Collectors reſpectively, are hereby authorized to take a bond with one or more ſufficient ſurety or ſureties, being a freeholder or freeholders, from the perſon exhibiting ſuch invoice or account, upon oath as aforeſaid for the payment of the ſaid duties, if upon goods or merchandize imported from any of the Weſt-India iſlands, in four months; and if upon goods or merchandize imported from any other country or place, in ſix months from the date of ſuch bonds reſpectively. And after ſuch payment of the ſaid duties ſhall be made, or ſecurity given therefore, in manner aforeſaid, the Collector ſhall grant a certificate or receipt thereof if required, and a permit for unlading the bales, caſks, cheſts, trunks, boxes, caſes or other packages, or goods, or merchandize, for which the duties ſhall have been ſo paid, or ſecured to be paid as aforeſaid, directed to the Land and Tide waiters, who upon receiving ſuch permit, ſhall allow the bales, caſks, cheſts, trunks, caſes, boxes, or other packages, or goods, or Merchandize ſpecified therein, to be unladed or diſcharged.

Penalty for landing goods before report, &c. be made.

IX. *And be it further enacted by the authority aforeſaid*, That if any maſter or perſon having the command or charge of any veſſel, which ſhall come into this State, after the ſaid firſt day of Auguſt next, ſhall land, or put on ſhore, or unlade any part of the cargo of ſuch veſſel within this State, before report and manifeſt have been made and delivered as aforeſaid, or upon exhibiting ſuch manifeſt, ſhall omit to mention therein any of the bales, cheſts, caſks, trunks, caſes, boxes or other packages, or goods, or merchandize on board of ſuch ſhip or veſſel, all ſuch goods and merchandize ſo landed, put on ſhore, unladen, or omitted, together with ſuch veſſel, her tackle apparel and furniture, ſhall be forfeited to the people of the State of New-York.

Proviſo.

Provided that the forfeiture of ſuch veſſel, her tackle, apparel and furniture, ſhall not be incurred, unleſs the goods ſo landed, put on ſhore, unladen, or omitted, ſhall exceed in value the ſum of fifty pounds.

Goods ſubject to duty by weight or meaſure, to be weighed or meaſured where landed.

X. *And be it further enacted by the authority aforeſaid*, That all the goods and merchandize ſubject to any duty by this act, according to weight or meaſure, ſhall be weighed guaged or meaſured upon the wharf or place where the ſame ſhall be landed or put on ſhore, before they are removed thereform; and the Guager, Weigh Maſter or Meaſurer, guaging, weighing or meaſuring the ſame, ſhall mark on all bales, caſks or packages, the quantity contained in the ſame reſpectively. And if any goods or merchandize ſubject to duty by this act ſhall be removed from the wharf or place where the ſame ſhall have been landed, before ſuch goods or merchandize ſhall be weighed, guaged or meaſured and marked, as the caſe may be, without the conſent of the Collector and his permit for that purpoſe obtained, ſuch goods or merchandize ſo removed ſhall be forfeited to the people of the State of New-York.

Penalty for landing goods without a permit.

XI. *And be it further enacted by the authority aforeſaid*, That if any merchant, factor, or other perſon ſhall after the firſt day of Auguſt next, land or put on ſhore, or remove from on board of any ſhip or veſſel within this State, any goods

or

or merchandize, ſubject to a duty in and by this act, before he ſhall have obtained from the Collector, a permit for that purpoſe, according to the true intent and meaning of this act, all ſuch goods or merchandize ſo landed, put on ſhore or removed, together with the veſſel, her tackle, apparel and furniture ſhall be forfeited to the People of this State. Provided that ſuch forfeiture of the veſſel, her tackle, apparel and furniture ſhall not be incurred unleſs the goods, ſo landed, put on ſhore or removed, ſhall exceed in value the ſum of fifty pounds.

Proviſo.

XII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for any land or Tide Waiter put on board of any ſhip or veſſel by the Collector, or ſurveyor and ſearcher, at ſun ſet, to have locks affixed to the hatches or other parts of ſuch ſhip or veſſel, in order to prevent the landing or diſcharging any part of the cargo from on board ſuch ſhip or veſſel, in the abſence of ſuch land and Tide Waiter. And the ſaid land and Tide Waiter ſhall keep the key or keys of ſuch locks until the next morning at ſun riſe; and if it ſhall appear that the ſaid locks, or any of them, have been broken open in the abſence of the land and Tide Waiter by whom they were affixed, or that the hatches, or any of them have been opened, then and in every ſuch caſe, the opening of any ſuch hatches, or the breaking of any ſuch locks, ſhall be deemed a ſufficient evidence of fraud; and the maſter or perſon having the command on board of any ſuch ſhip or veſſel, ſhall in every ſuch caſe, forfeit the ſum of five hundred pounds.

Land or tide waiter put on board of veſſels, to lock the hatches at ſun ſet, and keep the keys until next morning.

And if the ſame are broken open maſter of the veſſel to forfeit 500l.

XIII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Collectors reſpectively, to receive the money payable for duties by virtue of this act; and if any duty ſhall not be paid within the time in the ſaid bonds reſpectively mentioned (excepting the caſes in which draw backs are allowed for exportation,) the Collector to whom ſuch bond or bonds ſhall be payable, is hereby directed and directed and required forthwith after the expiration of the time of payment therein limited, to commence and proſecute to effect an action or actions in his own name, for the recovery of the ſums due on ſuch bonds reſpectively with coſts.

Collectors to receive the monies, payable by this act, and to proſecute bonds given for the payment of duties.

XIV. *And be it further enacted by the authority aforeſaid*, That if the ſaid Collector ſhall not forthwith, after the monies ſhall become due on ſuch bonds reſpectively, commence an action or actions for the recovery of the monies which ſhall become due thereon reſpectively, and proſecute the ſame to effect, (except as aforeſaid) then and in every ſuch caſe the ſaid Collector ſhall be deemed to have received the ſaid monies, and be accountable for the ſame to the People of this State, in like manner as if the ſame had actually been received by him. And that the ſaid monies ſhall be ſued for and recovered in any Court of Record having cognizance of the ſame, from the Collectors reſpectively, their reſpective heirs, executors or adminiſtrators, in an action or actions of debt, or in any other action or actions by and in the name of the Treaſurer of the State, and it is hereby made his duty to ſue for and recover ſuch monies for the uſe of the People of this State.

Collector not commencing a ſuit on ſuch bonds when the monies become due, ſhall be accountable for the ſame.

XV. *And be it further enacted by the authority aforeſaid*, That the Collectors ſhall reſpectively enter in a book to be kept by them for that purpoſe, the amount in value of the goods and merchandize in and by this act ſubject to a duty *ad valorem* as aforeſaid, the quantity of goods and merchandize in and by this act, particularly enumerated and deſcribed, and the amount of the duties thereon reſpectively. And the Collectors reſpectively ſhall alſo once in every three months deliver ſuch accounts to the Auditor of the State, who ſhall examine the ſame, and certify the amount thereof to the Treaſurer.

Collector to keep account of all goods and the duties thereon, and every three months deliver the ſame to the Auditor of the State, who ſhall certify the ſame to the Treaſurer.

XVI. *And be it further enacted the authority aforeſaid*, That the Collectors ſhall, once in every three months, pay to the Treaſurer of the State, all the monies which ſhall ariſe or come into their hands reſpectively, as well for duties and forfeitures, as for fees of office, in purſuance of this act, without any deduction whatſoever.

Collector to pay all monies to the Treaſurer.

XVII. *And be it further enacted by the authority aforeſaid*, That in caſes when either of the Collectors ſhall have information upon oath, or reaſonable cauſe to ſuſpect that the invoice exhibited to him, does not ſpecify all the goods or merchandize whether contained in bales, caſks, cheſts, trunks, caſes, boxes or other packages, or ſtowed in bulk, whereof the ſame is exhibited as a true invoice, the ſaid Collector

Collector ſuſpecting a falſe invoice, may take the goods and examine them.

ſhall and may take all ſuch bales, caſks, cheſts, trunks, caſes, boxes or other packages, and the goods or merchandize contained therein, as alſo the goods or merchandize ſtowed in bulk as aforeſaid into his poſſeſſion, and may open and examine the ſame; and if upon ſuch examination it ſhall be found that there were other goods or merchandize not mentioned in ſuch invoice which were omitted with an apparent deſign to defraud the State of the duties thereupon, as well thoſe mentioned, as thoſe omitted in ſuch invoice, ſhall be ſeized by the Collector and proceeded againſt, and forfeited to the People of this State.

Proviſo.

Provided for greater caution that in every caſe in which defence ſhall be made in any of the courts of common law, and judgment ſhall not paſs by default, it ſhall be the province of the Jury charged with the cauſe to try the intent aforeſaid, and to collect from the facts and circumſtances of the caſe, whether the ſame was fraudulent or otherwiſe.

Penalty for aſſiſting to land goods clandeſtinely.

XVIII. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons whomſoever after ſun ſet, and before ſun riſe, ſhall take up, land, or carry, or aid or aſſiſt in taking up, landing, carting or carrying any goods or merchandize, for which the duties in and by this act impoſed, have not been paid or ſecured to be paid in manner aforeſaid, every perſon or perſons ſo offending, ſhall forfeit and pay the ſum of fifty pounds, for every ſuch offence.

Land and Tide-waiters duty.

XIX. *And be it further enacted by the authority aforeſaid*, That it ſhall be the duty of ſuch of the Land and Tide Waiters as the Collector or Surveyor, and Searcher ſhall direct, to remain on board of any ſhip or veſſel having any goods or merchandiſe on board ſubject to duty, until ſuch veſſel ſhall be diſcharged.

Invoices how to be computed.

XX. *And be it further enacted by the authority aforeſaid*, That the duties to ariſe on any goods or merchandize, the invoice or account whereof is made out in Britiſh ſterling money, ſhall be computed and paid at the exchange of one hundred and ſeventy five pounds lawful money of this State, for one hundred pounds of ſuch ſterling money.

Penalties how to be recovered and applied.

XXI. *And be it further enacted by the authority aforeſaid*, That all and every penalty and penalties impoſed or incurred by this act, or any other act relative to the cuſtoms in this State, ſhall and may be ſued for and recovered, with coſts of ſuit, by action of debt, bill, plaint, or information, in any court of record in this State, in the name of the Collector of the cuſtoms of the port of New-York, or in the name of the Attorney-General of this State; and if any action or information ſhall be entered or proſecuted in the name of any other perſon, the ſame, and all proceedings thereupon, ſhall be void, and of none effect; the one moiety of all which penalties, when recovered, ſhall be to the uſe of the People of the State of New-York, and the other moiety thereof to him, her, or them, who ſhall inform concerning the ſame.

Manner of proſecution for forfeitures.

XXII. *And be it further enacted by the authority aforeſaid*, That all ſhips and veſſels, goods and merchandize which ſhall become forfeited by virtue of this act, ſhall be proſecuted by the Collector, or officer, or other perſon who ſhall ſeize the ſame, by information in the Court of Admiralty, or in the Court of Exchequer, or in any Mayor's Court, or Court of Common Pleas in this State, in order to condemnation thereof. And if ſuch information ſhall be proſecuted in the Court of Exchequer, or in any Mayor's Court, or Court of Common Pleas, proclamations ſhall be made in the accuſtomed manner; and in caſe no perſon ſhall appear and claim ſuch ſhip or veſſel, goods or merchandize, the ſame ſhall be adjudged to be forfeited; ſo as there ſhall be always three proclamations before judgment of forfeiture be given, and at leaſt two days between each proclamation, and judgment of forfeiture ſhall not be given until four days after the third proclamation ſhall be made. And if any perſon ſhall, before judgment of forfeiture, appear and claim ſuch ſhip or veſſel, goods or merchandize, and defend the proſecution thereof, the court ſhall proceed to hear and determine the cauſe according to law. And further, that on the prayer of any claimant to the court, that any ſhip or veſſel, goods or merchandize, ſo ſeized and proſecuted, or any part thereof, ſhould be delivered to ſuch claimant, it ſhall be lawful for the court to appoint three proper perſons to appraiſe ſuch ſhip or veſſel, goods or merchandize, who ſhall be ſworn in open court for the faithful diſcharge of their duty; and which appraiſement ſhall be made at the expence of the party on whoſe prayer the ſame ſhall be made; and the appraiſers ſhall be allowed ſuch ſum as the court in each caſe ſhall deem reaſonable, not exceeding

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n any caſe twenty ſhillings for each day, to each appraiſer; and on the return of ſuch ppraiſement, if the party claimant ſhall thereupon, with one or more ſureties to be approved of by the court, execute a bond in the uſual form to the Collector of the port of New-York, for the payment of a ſum equal to the ſum at which the ſhip or veſſel, goods or merchandize ſo prayed to be delivered, ſhall be appraiſed, the court ſhall by rule order ſuch ſhip or veſſel, goods or merchandize, to be delivered to the claimant; nd the ſaid bond ſhall be lodged with the Clerk of the Court. And if judgment ſhall paſs in favor of the claimant as to ſuch ſhip or veſſel, and as to the whole of ſuch goods nd merchandize ſo delivered, the court ſhall cauſe the ſaid bond to be cancelled; but if udgment ſhall paſs againſt the claimant, as to the whole or any part of ſuch ſhip or eſſel, or goods or merchandize, then if the claimant ſhall not, within ten days thereafter, ay into court, or to the Collector of the port of New-York, the amount of the ppraiſed value of ſuch ſhip or veſſel, or goods or merchandize ſo condemned, with the oſts, the court ſhall direct ſuch bond to be put in ſuit, and ſhall from time to time give uch relief therein, as ſhall be agreeable to equity and good conſcience.

Forfeitures how to be applied.

*And further*, That one moiety of all forfeitures to be incurred by virtue of this act, lear of all coſts of proſecution, and other charges and expences, ſhall be to the uſe of the erſon or perſons who ſhall inform and proſecute for the ſame, and the other moiety, fter deducting all coſts, charges, and expences, ſhall be to the uſe of the People of this tate.

In what courts proſecutions to be had.

XXIII. *And be it further enacted by the authority aforeſaid*, That in all caſes of proſecution for any ſuch forfeiture, it ſhall be in the diſcretion of the Collector of he port of New-York, or of the Attorney General to direct in which of the courts foreſaid, any information ſhall be brought, touching ſuch forfeiture; and if ſuch nformation ſhall not be in the name of the ſaid Collector or Attorney-General, the nformant ſhall, in every ſuch caſe, previous to filing his or her information, enter into bond or recoghizance, with one ſufficient ſurety, in the ſum of one hundred pounds, with a condition to proſecute the ſame to judgment and condemnation.

Proceedings in caſes where verdict is found for a claimant.

XXIV. *And be it further enacted by the authority aforeſaid*, That in caſe any ction or information ſhall be commenced and brought to trial, on account of the ſeizure of any goods or merchandize, wherein a verdict ſhall be found for the claimant or claimants thereof, and it ſhall appear to the Judge or court before whom ſuch action or information ſhall be tried, that there was a reaſonable cauſe of ſeizure, the ſame Judge or court ſhall cauſe a proper certificate or entry to be made thereof, and in ſuch caſes the defendants ſhall not be entitled to any coſts whatſoever; nor ſhall the informer, or perſon who made the ſeizure, or the proſecutor, be liable to any action, indictment, or other ſuit or proſecution, on account of ſuch ſeizure or proſecution; provided the goods or merchandize ſeized, forthwith after judgment ſhall be given for the ſaid claimant or claimants, be reſtored to ſuch claimant or claimants, his, her, or their agent. And if any action, indictment, or other proſecution ſhall be commenced and brought againſt any perſon or perſons whomſoever, on account of any ſuch ſeizure, it ſhall be lawful for the defendant or defendants to plead the general iſſue, and to give in evidence the certificate or entry aforeſaid, which ſhall be, and is hereby declared to be ſufficient to diſcharge ſuch defendant or defendants from all damages by reaſon of ſuch ſeizure; provided that it ſhall not preclude the recovery of the value of the goods ſeized, if the ſame ſhall not have been reſtored as aforeſaid, or of ſuch part thereof as may not have been reſtored.

In caſe of diſputes, the burthen of proof to lie on the owner of goods, &c.

XXV. *And be it further enacted by the authority aforeſaid*, That if any goods or merchandize ſhall be ſeized for non-payment of duties, or any other cauſe of forfeiture, and any diſpute ſhall ariſe whether the duties have been paid, or ſecured to be paid for the ſame, or whether the ſame have been lawfully imported, or concerning the port or place from whence ſuch goods or merchandize were brought, or concerning the property thereof, or the veſſel in which ſuch goods or merchandize were imported; then, and in every ſuch caſe, the burthen of the proof ſhall lie on the owner or owners, or claimant or claimants of ſuch goods or merchandize, and not on the perſon who ſhall ſeize the ſame.

XXVI. *And*

When warrants to iſſue to ſeize goods illegally landed.

XXVI. *And be it further enacted by the authority aforeſaid*, That upon information made by the Collector, or any other officer of the cuſtoms. and upon oath made by ſuch officer, that he hath probable cauſe to ſuſpect, and doth really ſuſpect that any perſon or perſons have landed, removed, reſhipped, or brought into this State any goods or merchandize ſubject to duty by this act, or cauſed the ſame to be done, without having made an entry thereof with the Collector, and paid or ſecured to be paid the duties thereon, according to the true intent and meaning of this act, it ſhall and may be lawful for the Chancellor, the Juſtices of the Supreme Court, the Mayors, Recorders, or any of the Aldermen of the cities of New-York, Albany, or Hudſon, or the Juſtices of the Peace of any of the counties of this State, or any or either of them to whom ſuch information on oath ſhall be given as aforeſaid, to iſſue a warrant or warrants under his hand and ſeal, directed to the Marſhal of the Court of Admiralty, or to the Sheriff of the county where the offence ſhall have been committed, or to the Sheriff of the county next adjoining thereto, who are hereby reſpectively required and authoriſed to execute ſuch warrants, thereby commanding the ſaid Marſhal and Sheriffs, or any of them, to enter into any houſe, out-houſe, or other building or incloſure, or ſhip, veſſel, or boat, in the day time, where ſuch goods or merchandize are ſuſpected to be depoſited or concealed; and in caſe of reſiſtance, or after demand and refuſal to open ſuch houſe, out-houſe, or other building or incloſure, or ſhip, veſſel, or boat; or where ſuch houſe, out-houſe, or other building or incloſure, or ſhip, veſſel, or boat ſhall be uninhabited or unoccupied, to break open ſuch houſe, out-houſe, or other building or incloſure, or ſuch ſhip, veſſel, or boat, and to ſeize and ſecure the ſaid goods or merchandize ſo depoſited or concealed therein; and all officers and miniſters of juſtice are hereby required to aid and aſſiſt therein.

Proviſo.

*Provided always*, That no houſe ſhall be entered by virtue of this act, unleſs it be within one month after the offence is ſuppoſed to have been committed:

On receipt of ſuch warrant Sheriff authorized to go on board any veſſel, &c.

XXVII. *And be it further enacted by the authority aforeſaid*, That the Marſhal and Sheriffs and every of them, having received ſuch warrant as aforeſaid are hereby authorized and enabled to go and enter on board of any ſhip or veſſel, and from thence to bring on ſhore, into the ſtore or warehouſe, provided for that purpoſe, any goods or merchandize liable to ſeizure by this act; and that whenever the ſaid Marſhal, Sheriff or Collector, or any officer of the cuſtoms, ſhall in the due execution of their reſpective offices, be by any perſon or perſons reſiſted, obſtructed, abuſed, aſſaulted, beaten or wounded, either on board of any ſhip, veſſel or boat, or upon land or water, all and every ſuch perſon or perſons ſo offending, ſhall forfeit and pay for every ſuch offence, the ſum of two hundred pounds.

Penalty on perſons reſiſting the Sheriff.

Collector to provide ſtore for depoſiting goods ſeized.

XXVIII. *And be it further enacted by the authority aforeſaid*, That in caſe of the ſeizure of any goods or merchandize as aforeſaid, the Collectors reſpectively ſhall and may for depoſiting and ſecuring thereof procure and provide good and ſufficient ſtore houſes, at the expence of the People of this State.

Marſhal or Sheriff ſeizing goods to give a receipt for the ſame.

XXIX. *And be it further enacted by the authority aforeſaid*, That the Marſhal or Sheriff, who ſhall ſeize any goods or merchandize as aforeſaid, ſhall give his receipt for the ſame, expreſſing the particular bales, caſks, cheſts, trunks, caſes, boxes, and other packages, and the marks and numbers thereof; and that all ſuch goods or merchandize ſo to be ſeized, ſhall be put into and remain in the cuſtody of the Collector, until ſuch proceedings ſhall be had, as are required by this act, to aſcertain whether the ſame have been forfeited, and ought to be condemned or not, and if it ſhall be found and adjudged that the ſame were not forfeited, they ſhall be forwith reſtored to the owner or owners, or claimant or claimants thereof.

Goods to remain with the Collector until it is determined whether they are forfeited.

Perſons concealing goods, to forfeit 20l.

XXX. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall knowingly harbour, conceal or buy any goods or merchandize, liable to ſeizure by this act, ſuch perſon or perſons ſhall forfeit and pay for every ſuch offence, the ſum of twenty pounds.

Veſſels, goods & merchandize condemned by this act how to be ſold.

XXXI. *And be it further enacted by the authority aforeſaid*, That all ſhips, veſſels, goods or merchandize which ſhall be ſeized and condemned by virtue of this act, ſhall be ſold by the proper officer of the court, in which ſuch condemnation ſhall be had to the higheſt bidder, at public auction, by order of the Collector, and at ſuch

ſuch place as he ſhall appoint for that purpoſe, giving at leaſt fourteen days notice (except in caſe of periſhable goods) in two of the news papers publiſhed in this State; and ſuch officer ſhall render an account of all ſuch ſales, and pay the monies ariſing therefrom to the Collector, by whoſe order ſuch ſales ſhall have been made, within twenty days thereafter, in order that the ſame may be diſtributed as is herein before directed.

Veſſels in diſtreſs exempted.

XXXII. *And be it further enacted by the authority aforeſaid*, That when any ſhip or veſſel ſhall by diſtreſs, be driven or compelled to come into the port of New-York, the maſter or perſon having the command, ſhall make a report of ſuch arrival; and deliver an account or manifeſt of the cargo on board of ſuch veſſel, as is herein before directed in other caſes; and may remain a reaſonable time in port to repair and refit, without being ſubject to any duties, except on ſuch goods liable to a duty, which ſhall be actually landed; or to any charges or expences to this State, except the daily pay of the Cuſtom Houſe officer or officers, to be put on board by the Collector, or the Surveyor and Searcher. And the maſter of any ſuch ſhip, or veſſel may land and ſell, under the inſpection and direction of the Port Wardens, and an officer of the cuſtoms to be appointed by the Collector for that purpoſe, ſuch part of the cargo, as ſhall appear to the Collector of the Port to be neceſſary to procure proviſions, and to defray the neceſſary and incidental expences of ſuch refitting and repairs.

Proviſo.

*Provided always*, That in all caſes, where it ſhall be neceſſary to unload any ſuch veſſel for repairing thereof, the cargo, or ſuch part thereof, as may be unladed, in order to be taken again on board ſhall be unladed, and again loaded under the inſpection of the officers of the cuſtoms, and not otherwiſe. And provided further, that in order to aſcertain what ſhips or veſſels ſhall be entitled to the exemptions and privileges hereby allowed to ſhips and veſſels in diſtreſs, it ſhall be the duty of the maſter or other perſon having the command of any ſuch ſhip or veſſel, at the time of making the report, and delivering the manifeſt aforeſaid, to report the cauſe, which obliged ſuch ſhip or veſſel to come into port; whereof the Collector ſhall give notice to the wardens of the port. And the ſaid maſter or other perſon, having the command of ſuch ſhip or veſſel, ſhall within four days after making ſuch report, *cauſea* proteſt on oath in the uſual form to be made, before ſome Notary Public, ſetting forth the cauſes and circumſtances which obliged ſuch veſſel to come into port; and ſhall lay ſuch proteſt, before the ſaid Wardens of the port, who, or any two of whom, are hereby authorized to inſpect and examine ſuch veſſel: And alſo further to examine the maſter, or perſon having the command of ſuch veſſel, on oath, touching ſuch cauſes and circumſtances; and the ſaid Wardens of the port ſhall, as ſoon as may be, certify to the Collector, whether in their opinion, ſuch veſſel came into port in diſtreſs or not: And if they ſhall certify that ſuch veſſel did not come into port in diſtreſs, thenceforth all the exemptions and privileges hereby allowed to veſſels in diſtreſs, ſhall ceaſe with reſpect to ſuch ſhip or veſſel; and the ſaid veſſel and her cargo, ſhall be thenceforth liable to the ſame regulations, as are preſcribed by this act in other caſes.

Deductions or drawbacks, on goods exported, &c.

XXXIII. *And be it further enacted by the authority aforeſaid*, That if any goods or merchandize imported or brought into this State, ſubject to duty by this act, for the duties whereof a bond or bonds ſhall have been given, ſhall be exported out of this State within ninety days after the importation thereof, to any other part of the United States of America; the amount of the duty on ſuch goods and merchandize ſhall be deducted from the ſums payable upon ſuch bond or bonds: And to aſcertain upon what goods or merchandize, ſuch deduction, or drawback ſhall be allowed, it ſhall be neceſſary for the exporter or exporters thereof, after ſuch goods or merchandize ſhall have been laden on board of any veſſel for exportation, and before the departure of ſuch veſſel, to report the ſame to the Collector, delivering an invoice or account of the bales, cheſts, caſks, boxes, caſes, trunks and other packages, the marks and numbers of ſuch bales, cheſts, caſks, boxes, caſes, trunks, and other packages, and ſpecifying the ſhip or veſſel, in which the ſame have been laden for exportation, and thereupon the exporter of ſuch goods and merchandize, being the original importer or conſignee thereof, ſhall take an oath, to be adminiſtered by the Collector in the words following, to wit:

Oath. I ——— —— do ſwear in the preſence of Almighty God, that the bales, cheſts, caſks, boxes, caſes, trunks, and other packages, ſpecified in the invoice now by me delivered, and marked and numbered as is therein mentioned, were actually imported into this State, in the ſhip or veſſel called the ——— from the port of ——— for the duties whereof I have given bond, to the Collector of the port of ——— and that the ſaid goods and merchandize were actually laden on board the veſſel called the ——— for exportation, in the original bales, cheſts, caſks, boxes, caſes, trunks, and other packages, in which they were imported and that the ſaid bales, cheſts, caſks, boxes, caſes, trunks and other packages, were not opened, nor any part of the goods therein contained, taken out or exchanged, before they were laden on board of the ſaid ſhip or veſſel laſt mentioned; and that the ſaid bales, cheſts, caſks, boxes, caſes, trunks and other packages with the goods and merchandize therein are *bona fide*, intended to be exported for the port of ——— in the State of ——— and that the goods and merchandize ſo to be exported ſubject to a duty *ad valorem*, are of the value of ——— computed on the prime coſt; and that there were no enumerated articles, ſubject to a duty, contained in the ſaid bales, cheſts, caſks, boxes, caſes, trunks, and other packages than thoſe mentioned in the invoice now by me exhibited: And further that the ſaid goods or merchandize have not been laden on board the ſaid ſhip or veſſel laſt mentioned, with deſign to evade the payment of the duties thereupon, or to be relanded, or in any other manner brought back into this State. But if ſuch exporter ſhall not be the original importer or conſignee of ſuch goods or merchandize, then ſuch original importer or conſignee ſhall take an oath, to be adminiſtered by the Collector in the words following to wit:

Oath. I ——— —— do ſwear in the preſence of Almighty God, that the bales, cheſts, caſks, boxes, caſes, trunks and other packages ſpecified in the invoice now by me delivered, and marked and numbered as is therein mentioned, were actually imported into this State, in the ſhip or veſſel called the ——— from the port of ——— and that the goods and merchandize therein contained have been by me ſold and delivered in the original bales, cheſts, casks, boxes, caſes, trunks and other packages, in which they were imported to ——— and that the prime coſt of ſuch part thereof as is ſubject to a duty *ad valorem*, is ——— and that there were not to my knowledge or belief, any enumerated articles contained in the ſaid bales, cheſts, caſks, boxes, caſes, trunks, and other packages, other than thoſe mentioned in the invoice now by me exhibited, "And the ſaid exporter of ſuch goods and merchandize, ſhall take an oath, to be adminiſtered by the Collector, in the words following to wit."

Oath. I —— —— do ſwear in the preſence of Almighty God, that the goods and merchandize contained in the bales, cheſts, caſks, boxes, caſes, trunks and other packages ſpecified in the invoice herewith delivered, and marked and numbered as is therein mentioned, were by me purchaſed of ——— and that no part of the goods in the ſaid bales, cheſts, caſks, boxes, caſes trunks, and other packages contained at the time of delivery thereof to me, have been taken out or exchanged, ſince the time of ſuch delivery: And that the ſaid bales, cheſts, caſks, boxes, caſes, trunks and other packages, together with the goods and merchandize therein contained at the time of the ſaid delivery as are ſpecified in the invoice aforeſaid, have been *bona fide*, laden on board the ſhip or veſſel called the ——— for the purpoſe of being exported to the port of ——— in the State of ——— and that the ſaid goods and merchandize were not ſo laden on board the ſaid ſhip or veſſel laſt mentioned, with deſign to evade the payment of the duty thereupon, or to reland or otherwiſe bring back the ſaid goods and merchandize into this State, and thereupon, if the balance due upon ſuch bond, be paid within the time for that purpoſe limited, it ſhall be lawful for the Collector, to whom ſuch bond was given, and he is hereby required to ſuſpend the proſecution of ſuch bond, for the ſpace of four calendar months, after ſuch exportation; and if at or before the expiration of the ſaid four months, the exporter of ſuch goods and merchandize ſhall produce to ſuch Collector, a certificate from the chief officer of the cuſtoms, of the place where ſuch goods or merchandize ſhall be landed, that ſuch goods and merchandize have been there landed, ſpecifying the marks and numbers of the bales, cheſts, caſks, boxes, caſes, trunks and other packages, wherein the ſame were ſo landed; then ſuch Collector ſhall deduct and allow the amount of the duties thereupon, and not otherwiſe.

*Provided*

*Provided always*, That in case such goods and merchandize, or any part thereof shall be lost, or perish by any unavoidable accident, after their exportation, and prior to their arrival at the place of their destination, such drawback or deduction as aforesaid, shall be made and allowed without the production of such certificate; instead of which the exporter of such goods and merchandize shall take an oath to be administered by the Collector, that to the best of his information, knowledge and belief, the said goods and merchandize were actually lost on the passage to the place of their destination, specifying such goods and merchandize, and the cause of such loss; Provided that if such exporter shall be a resident in another State, an oath to the foregoing effect, taken by such exporter, before a Notary Public or Mayor, or other chief Magistrate of the place where such exporter shall reside, and certified under the seal of such Notary Public, Mayor or other chief Magistrate, shall and may be admitted in lieu of the oath to be administered by the Collector as aforesaid.

Oath.

Fees to be taken by Collectors for entering, clearing, &c.

XXXIV. *And be it further enacted by the authority aforesaid*, That from and after the passing of this act, no higher or other fees shall be demanded or received by the Collector for the port of New-York, for entering inwards and clearing out any vessel or boat, the property of the citizens of any of the United States, arriving either from the State of Connecticut, or from the eastern division of the State of New-Jersey, and having on board any goods or merchandize, subject to the payment of duties by this act, or any law of this State, and for which the duties have not been paid, than the following that is to say, for every vessel or boat of the burthen of forty tons and upwards, and under seventy tons, the sum of twenty shillings. For every vessel or boat of the burthen of twenty tons and upwards, and under forty tons, the sum of twelve shillings; and for any vessel or boat with a deck thereon, of less burthen than twenty tons the sum of eight shillings; and for entering inwards and clearing outwards, any vessel or boat, the property of a citizen or citizens of any of the United States, arriving either from the State of Connecticut, or from the eastern division of the State of New-Jersey, and not having on board any goods or merchandize subject to the payment of duties, by any law of this State, no higher or other fees than the following, that is to say, for every vessel or boat of the burthen of forty tons and upwards, and under seventy tons, the sum of five shillings; for every vessel or boat of the burthen of twenty tons and upwards, and under forty tons, the sum of three shillings; and for every vessel or boat, with a deck thereon, of less burthen than twenty tons, the sum of two shillings.

Tonage of vessels how to be ascertained.

XXXV. *And be it further enacted by the authority aforesaid*, That the tonage of every such vessel or boat shall or may be ascertained by the oath or oaths of the master, or owner or owners thereof or otherwise, which oath or oaths the Collector for the port of New-York for the time being is hereby authorized and required to administer.

Fees arising by this act how to be applied.

XXXVI. *And be it further enacted by the authority aforesaid*, That all the fees arising by virtue of this act, shall be applied and accounted for, in the manner directed by the law of this State, entitled, "An act for the establishment of a custom house."

Registers to be granted for all vessels built in this State, &c.

XXXVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the respective Collectors of the customs in this State, to grant registers for all and every ship or vessel which shall or may be built within this State, by any person or persons whatsoever, or for any ship or vessel actually owned by any citizen or citizens of this State; and that such registers shall express the tonnage and description of every such ship or vessel.

Proviso.

*Provided always*, That the ship or vessel for which such register shall be required be at the time, actually within this State; and provided also, that the person or persons who shall apply for the same shall, previous to the issuing of any such register, subscribe his or their name or names to the same register, and make oath before such Collector, that the ship or vessel for which he or they require a register, was actually built within this State, or is *bona fide* the property of a citizen or citizens of this State.

XXXVIII. *And*

Former acts relative to duties repealed after 1ſt Auguſt next.

XXXVIII. *And be it further enacted by the authority aforeſaid,* That the act, entitled, "An act impoſing duties on certain goods, wares, and merchandize imported into this State;" and the act, entitled, "An act to explain and amend an act, entitled, an act impoſing duties on certain goods, wares, and merchandize imported into this State," paſſed the eighteenth day of November, 1784; and the act, entitled, "An act impoſing duties on the importation of certain goods, wares, and merchandize," and the fourth ſection of the act, entitled, "An act for granting a bounty on hemp to be raiſed within this State, and impoſing an additional duty on ſundry articles of merchandize, and for other purpoſes therein mentioned," ſhall, from and after the ſaid firſt day of Auguſt next, be, and the ſame are hereby reſpectively declared to be repealed.

Proviſo.

*Provided always,* That the Collector ſhall proſecute to effect ſuch bonds which ſhall be executed for duties ariſing on goods and merchandize imported into this State, before the ſaid firſt day of Auguſt next, by virtue of any of the acts hereby repealed. And that all ſuits, informations, or proſecutions, already commenced, or which may be commenced, for any forfeiture or penalty incurred by virtue of any of the ſaid acts before the ſaid firſt day of Auguſt next, may be proſecuted in like manner as if ſuch acts had continued in full force.

Further proviſo.

*And provided further,* That whenever the United States in Congreſs aſſembled, ſhall, by any of their acts, declare their acceptation of the impoſt intended to be granted in and by the act, entitled, "An act for giving and granting to the United States in Congreſs aſſembled, certain impoſts and duties on foreign goods imported into this State, for the ſpecial purpoſe of paying the principal and intereſt of the debt contracted in the proſecution of the late war with Great-Britain;" that then, and from thence forth, this act ſhall ceaſe and be void, and the ſaid acts now in force, and herein declared to be repealed, ſhall be reſpectively revived, and remain in full force.

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## CHAP. LXXXII.

AN ACT *to inſtitute an Univerſity within this State, and for other Purpoſes therein mentioned.* Paſſed the 13th April, 1787.

Preamble.

WHEREAS by two acts of the Legiſlature of the State of New-York, the one paſſed the firſt day of May, and the other the twenty-ſixth day of November, one thouſand ſeven hundred and eighty-four, an Univerſity is inſtituted within this State, in the manner and with the powers therein ſpecified. And whereas, from the repreſentation of the Regents of the ſaid Univerſity, it appears that there are defects in the conſtitution of the ſaid Univerſity, which call for for alterations and amendments. And whereas a number of acts on the ſame ſubject, amending, correcting, and altering former ones, tend to render the ſame leſs intelligible and eaſy to be underſtood. Wherefore, to the end that the conſtitution of the ſaid Univerſity may be properly amended, and appear entire in one law, it will be expedient to delineate and eſtabliſh the ſame in this, and repeal all former acts relative thereto;

Eſtabliſhing a Univerſity in New-York.

Regents named.

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That an Univerſity be and is hereby inſtituted within this State, to be called and known by the name or ſtyle of the Regents of the Univerſity of the State of New-York. That the ſaid Regents ſhall always be twenty-one in number, of which the Governor and Lieutenant-Governor of the State for the time being, ſhall always, in virtue of their offices, be two; that the Governor and Lieutenant-Governor, and John Rodgers, Egbert Benſon, Philip Schuyler, Ezra L'Hommedieu, Nathan Carr, Peter Sylveſter, John Jay, Dirck Romeyn, James Livingſton, Ebenezer Ruſſell, Lewis Morris, Matthew Clarkſon, Benjamin Moore, Eilardus Weſterlo, Andrew King, William Lynn, Jonathan G. Tompkins, John McDonald, and Frederick William De Steuben, ſhall be, and hereby are appointed the preſent Regents; and that they, and all the future Regents, ſhall continue in place during the pleaſure of the Legiſlature; that all vacancies in the Regency

which

which may happen by death, or removal, or reſignation, ſhall from time to time be ſupplied by the Legiſlature, in the manner in which Delegates to Congreſs are appointed.

Regents when to meet, and for what purpoſe.

That the ſaid Regents, as ſoon as may be after the paſſing of this act, ſhall convene at ſuch time and place as the Governor ſhall appoint, and by plurality of voices, by ballot, chooſe a Chancellor and Vice-Chancellor, to continue in office during the pleaſure of the ſaid Regents.

Who to preſide.

That the ſaid Chancellor, or in his abſence from the ſaid meeting, the Vice-Chancellor, or in caſe both be abſent, then the ſenior Regent preſent (and whoſe ſeniority ſhall be decided by the order in which the Regents are named or appointed) ſhall preſide; and in caſe of diviſion, having a caſting voice at all meetings of the ſaid Regents.

Who to appoint meetings.

That all meetings of the ſaid Regents, after the firſt, ſhall be held at ſuch time and place as the Chancellor, or in caſe of his death, abſence from the State, or reſignation, the Vice-Chancellor, or in caſe of the death, abſence from the State, or reſignation of both of them, then at ſuch time and place as the ſenior Regent preſent in the State ſhall appoint. And it ſhall be the duty of the Chancellor, Vice-Chancellor, or ſenior Regent, as the caſe in virtue of the above contingencies may be, to order and call a meeting of the ſaid Regents, whenever and as often as three Regents ſhall in writing apply for and requeſt the ſame; ſuch order or call to be publiſhed in one or more of the public newſpapers in the city of New-York, at leaſt ten days prior to ſuch meeting.

Eight Regents to make a quorum.

And further, that any eight of the ſaid Regents meeting at the time and place ſo ordered, ſhall be a quorum, and be enabled to tranſact and do the buſineſs which by this act they ſhall be authoriſed or directed to do and tranſact.

Univerſity incorporated.

That the ſaid Univerſity ſhall be and hereby is incorporated, and ſhall be known by the name of the Regents of the Univerſity of the State of New-York, and by that name ſhall have perpetual ſucceſſion, and power to ſue and be ſued, to hold property real and perſonal to the amount of the annual income of forty thouſand buſhels of wheat, to buy and to ſell, and otherwiſe lawfully diſpoſe of lands and chattels, to make and uſe a common ſeal, and to alter the ſame at pleaſure.

Corporation to appoint a Treaſurer and Secretary.

II. *And be it further enacted by the authority aforeſaid*, That the ſaid Corporation ſhall appoint by ballot, a Treaſurer and Secretary, to continue in office during the pleaſure of the Corporation. That the Treaſurer ſhall keep fair and true accounts of all monies by him received and paid out; and that the Secretary ſhall keep a fair journal of the meetings and proceedings of the Corporation, in which the yeas and nays on all queſtions ſhall be entered, if required by any one of the Regents preſent. And to all the books and papers of the Corporation every Regent ſhall always have acceſs, and be permitted to take copies of them.

Regents to viſit colleges, &c.

III. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the ſaid Regents, and they are hereby authoriſed and required to viſit and inſpect all the colleges, academies, and ſchools, which are or may be eſtabliſhed in this State, examine into the ſtate and ſyſtem of education and diſcipline therein, and make a yearly report thereof to the Legiſlature; and alſo to viſit every college in this State once a year, by themſelves or by their Committees; and yearly to report the ſtate of the ſame to the Legiſlature; and to make ſuch bye-laws and ordinances, not inconſiſtent with the conſtitution and laws of the State, as they may judge moſt expedient for the accompliſhment of the truſt hereby repoſed in them.

And appoint a Preſident in caſe of vacancy.

And in caſe the Truſtees of the ſaid colleges, or any of them, ſhall leave the office of Preſident of the college, or the Truſtees of any academy ſhall leave the office or place of Principal of the academy vacant, for the ſpace of one year, it ſhall, in all ſuch caſes, be lawful for the Regents, unleſs a reaſonable cauſe ſhall be aſſigned for ſuch delay, to their ſatisfaction, to fill up ſuch vacancies; and the perſons by them appointed ſhall continue in office during the pleaſure of the Regents, and ſhall reſpectively be received by the college or academy to which they may be appointed, and ſhall have all the powers, and exactly the ſame ſalary, emoluments, and privileges, as his next immediate predeceſſor in office enjoyed, if any predeceſſor he had; if not, then ſuch ſalary, as the Regents ſhall direct, to be paid by the Truſtees, who ſhall, out of the funds or eſtate of their college or academy, be compellable by the ſaid Preſident or Principal to pay the ſame.

Regents may confer degrees, &c.

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid Regents ſhall have the right of conferring, by diplomas under their common ſeal, any perſon or perſons whom they may think worthy thereof, all ſuch degree or degrees, above or beyond thoſe of Bachelor or Maſter of Arts, as are known to and uſually granted by any univerſity or college in Europe.

May apply funds.

V. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for the ſaid Regents from time to time to apply ſuch part of their eſtate and funds in ſuch manner as they may think moſt conducive to the promotion of literature, and the advancement of uſeful knowledge within this State.

Proviſo.

*Provided always,* That where grants ſhall be made to them, for certain uſes and purpoſes therein expreſſed and declared, the ſame ſhall not be applied, either in the whole or in part, to any other uſes.

Regents when and where to meet.

VI. *And be it further enacted the authority aforeſaid,* That the Regents ſhall annually meet on the ſecond Thurſday next after the Senate and Aſſembly, at the annual ſeſſion of the Legiſlature, ſhall have formed a quorum reſpectively, and at the Aſſembly chamber immediately after the Aſſembly ſhall have adjourned. That the ſaid Regents, at ſuch meetings, and all others, may adjourn from time to time, not exceeding ten days at any one time.

Perſons wiſhing to found a college, to apply to the Regents.

VII. *And be it further enacted by the authority aforeſaid,* That any citizen or citizens, or bodies corporate, within this State, being minded to found a college at any place within the ſame, he or they ſhall, in writing, make known to the Regents, the place where, the plan on which, and the funds with which it is intended to found and provide for the ſame, and who are propoſed for the firſt Truſtees; and in caſe the Regents ſhall approve thereof, then they ſhall declare their approbation by an inſtrument under their common ſeal, and allow a convenient time for completing the ſame. And if at the expiration of the ſaid time it ſhall appear to the ſatisfaction of the Regents, that the ſaid plan and propoſitions are fully executed, then they ſhall, by act under their common ſeal, declare, that the ſaid college, to be named as the Founders ſhall ſignify, and with ſuch Truſtees, not exceeding twenty-four, nor leſs than ten, as they ſhall name, ſhall forthwith become incorporated, and ſhall have perpetual ſucceſſion, and enjoy all the corporate rights and privileges enjoyed by Columbia college herein after mentioned.

Former charter to the college in the city of New-York confirmed

Exceptions.

VIII. *And be it further enacted by the authority aforeſaid,* That the charter heretofore granted to the Governors of the college of the province of New-York, in the city of New-York, in America, dated the thirty-firſt day of October, in the year of our Lord, one thouſand ſeven hundred and fifty-four, ſhall be, and hereby is fully and abſolutely ratified and confirmed in all reſpects, except that the college thereby eſtabliſhed ſhall be henceforth called *Columbia College*: That the Style of the ſaid Corporation ſhall be, *The Truſtees of Columbia College in the City of New-York,* and that no perſons ſhall be Truſtees of the ſame in virtue of any offices, characters or deſcriptions whatever; excepting alſo ſuch clauſes thereof as require the taking of oaths and ſubſcribing the declaration therein mentioned; and which render a perſon inelligible to the office of Preſident of the college on account of his religious tenets, and preſcribe a form of public prayer to be uſed in the ſaid college; and alſo excepting the clauſe thereof which provides that the bye-laws and ordinances to be made in purſuance thereof, ſhould not be repugnant to the laws and ſtatutes of that part of the kingdom of Great-Britain, called England; except alſo, that in all caſes where fifteen Governors are required to conſtitute a quorum for the diſpatch of buſineſs, thirteen Truſtees ſhall be ſufficient.

Proviſo.

*Provided always,* That the bye-laws and ordinances to be made by the Truſtees of the ſaid Columbia college, ſhall not be contrary to the conſtitution and laws of this State.

Truſtees of Columbia college named, and vacancies how ſupplied.

IX. *And be it further enacted by the authority aforeſaid,* That James Duane, Samuel Provoſt, John H. Livingſton, Richard Varick, Alexander Hamilton, John Maſon, James Wilſon, John Gano, Brockholſt Livinſton, Robert Harper, John Daniel Groſs, Johann Chriſtoff Kunze, Walter Livingſton, Lewis A. Scott, Joſeph Delaplaine, Leonrd Liſpenard, Abraham Beach, John Lawrence, John Rutherfurd, Morgan Lewis, John Cochran, Gerſham Seixas, Charles M'Knight, Thomas Jones, Malachi Treat, Samuel Bard, Nicholas Romein, Benjamin

jamin Kiſſm, and Ebenezer Croſby, ſhall be, and they are hereby conſtituted and declared to be the preſent Truſtees of Columbia College, in the city of New-York, and that when by the death or reſignation or removal of any of the ſaid Truſtees, the number of thoſe Truſtees ſhall be reduced to twenty four; then and from thenceforth the ſaid twenty four truſtees ſhall be, and they hereby are declared and conſtituted Truſtees of the ſaid Columbia College in perpetual ſucceſſion, according to the true intent and meaning of the ſaid charter; and all vacancies thereafter ſhall be ſupplied in the manner thereby directed.

Powers given to truſtees, &c.

X. *And be it further enacted by the authority aforeſaid*, That all and ſingular the power, authority, rights, privileges, franchiſes and immunities, ſo heretofore granted to, and veſted in the ſaid Governors of the College of the province of New-York, in the city of New-York, in America, by the ſaid Charter, excepting as before excepted, ſhall be, and the ſame hereby are granted to and veſted in the Truſtees of Columbia College, in the city of New-York, and their ſucceſſors forever, as fully and effectually, to all intents and purpoſes, as if the ſame were herein particularly ſpecified and expreſſed; and all, and ſingular the lands, tenements, hereditaments and real eſtate, goods, chattels, rents, annuities, monies, books, and other property, whereof the ſaid Governors of the College of the province of New-York, in the city of New-York, in America, were ſeized, poſſeſſed or entitled, under and in virtue of the ſaid charter, or with which the Regents of the ſaid Univerſity were inveſted, under or by virtue of the ſaid acts, for the uſe or benefit of the ſaid Columbia College, ſhall be, and the ſame hereby are granted to and veſted in the ſaid Truſtees of Columbia College, in the city of New-York, and their ſucceſſors forever, for the ſole uſe and benefit of the ſaid College; and it ſhall and may be lawful to and for the ſaid Truſtees and their ſucceſſors, to grant, bargain, ſell, demiſe, improve and diſpoſe of the ſame, as to them ſhall ſeem meet.

*Provided always*, That the lands given and granted to the Governors of the College of the province of New-York, in the city of New-York, in America, by the Corporation, heretofore ſtyled the Rector and inhabitants of the city of New-York, in communion of the church of England as by law eſtabliſhed, on part whereof the ſaid College is erected, ſhall not be granted for any greater eſtate, or in any other manner than is limited by the ſaid charter.

Senior Truſtee to call ſpecial meetings

XI. *And be it further enacted by the authority aforeſaid*, That when any ſpecial meeting of the Truſtees of the ſaid Colleges ſhall be deemed neceſſary, it ſhall and may be lawful to and for the ſenior Truſtee of the ſaid College then in the city of New-York, and taking upon himſelf the exerciſe of the office (which ſeniority ſhall be determined according to the order in which the ſaid Truſtees are named in this act, and ſhall be elected hereafter) and he is hereby authoriſed and required, on application for that purpoſe in writing under the hands of any five or more of the ſaid Truſtees, to appoint a time for ſuch ſpecial meeting, in ſome convenient place within the ſaid city, and to cauſe due notice thereof to be given in the manner directed by the ſaid charter.

Recital.

And whereas Academies for the inſtruction of youth in the languages, and other branches of uſeful learning, have been erected and inſtituted in different parts of this State, by the free and liberal benefactions of corporations, as well as individuals; and the Regents of the Univerſity having repreſented, that the appointment and incorporation of Truſtees for each of the ſaid Academies, with competent power to manage the funds already appropriated, and the donations which may be made to ſuch Academies, and to ſuperintend the morals and education of the Scholars, and the conduct of the Principal, Maſters and Teachers, would greatly conduce to their ſecurity and proſperity. *Therefore*,

Upon application Regents may incorporate Academies &c.

XII. *Be it further enacted by the authority aforeſaid*, That upon the application of the Founders and benefactors of any Academy, now or hereafter to be erected or eſtabliſhed within any of the cities or counties of this State, or as many of them as ſhall have contributed more than one half in value of the real and perſonal property and eſtate, collected or appropriated for the uſe and benefit thereof, by an inſtrument in writing under their hands and ſeals, to the Regents of the Univerſity, expreſſing their requeſt, that ſuch Academy ſhould be incorporated, and be ſubject

to

to the viſitation of the Regents, nominating in ſuch inſtrument the Truſtees, not more than twentyfour, or leſs than twelve, for ſuch Academy, and ſpecifying the name by which the ſaid Truſtees ſhall be called and diſtinguiſhed, and whenever any ſuch requeſt ſhall be made to the ſaid Regents, they ſhall in every ſuch caſe, if they conceive ſuch Academy calculated for the promotion of Literature, by an inſtrument under their common ſeal, ſignify their approbation of the incorporation of the Truſtees of ſuch Academy, named by the founders thereof, by the name mentioned in and by their ſaid requeſt in writing; which ſaid requeſt in writing, and inſtrument of approbation by the ſaid Regents, ſhall be recorded in the Secretary's office of the State.

Inſtrument approving of the incorporation of Academies ſhall be recorded in the Secretary's office.

XIII. *And be it further enacted by the authority aforeſaid,* That the Truſtees ſo conſtituted, ſhall be the firſt Truſtees for the Academy for which they ſhall be appointed, and immediately after recording the ſaid requeſt in writing and inſtrument of approbation, ſhall be legally inveſted with all the real and perſonal eſtate appertaining to ſuch Academy, or in any wiſe given or granted, for the uſe thereof; and the ſaid Truſtees, from the time of their appointment as aforeſaid, and their ſucceſſors forever thereafter, ſhall be a body corporate and politic, in deed, fact and name, known and diſtinguiſhed by the name and ſtyle to be expreſſed in the ſaid inſtrument; and by that name ſhall have perpetual ſucceſſion, and be capable in the law to ſue and be ſued, and defend and be defended in all courts, and in all cauſes plaints, controverſies, matters and things whatſoever; and by the ſame name and ſtyle, they and their ſucceſſors ſhall lawfully hold, uſe and enjoy the lands, tenements and hereditaments, in any wiſe appertaining to the Academy for which they ſhall be conſtituted Truſtees, and ſhall and may lawfully have, take, acquire, purchaſe and enjoy lands, tenements and hereditaments, and uſe and improve ſuch goods and chattels in ſuch manner as they ſhall judge to be moſt beneficial for ſuch Academy; Provided that the annual revenue or income ariſing from the real and perſonal eſtate of any ſuch Academy ſhall not exceed the value of four thouſand buſhels of Wheat, any law, uſage, or cuſtom to the contrary notwithſtanding.

After ſuch record Truſtees to be incorporated, &c.

Annual revenue of Academies not to exceed a certain ſum.

XIV. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful to and for ſuch Truſtees, and their ſucceſſors forever, to have and uſe a common ſeal, and the ſame to alter, break, and make a new at their pleaſure. And as often as any three or more of the ſaid Truſtees ſhall think fit, and ſignify their requeſt, the ſenior Truſtee actually exerciſing his office, and reſiding within three miles of ſuch Academy, ſhall call a meeting of the ſaid Truſtees, at ſuch convenient time and place as he ſhall appoint, not leſs than eight nor more than twelve days from the time of ſuch requeſt, of which previous notice in writing, ſhall be affixed on the door of the Academy, and of the church neareſt thereto, within two days after ſuch appointment; and at every ſuch meeting the ſenior Truſtees ſhall preſide; ſuch ſeniority in all caſes to be determined according to the order of their nomination in the ſaid inſtrument, or according to the priority of election after all the firſt Truſtees ſhall become extinct: And the major part of ſuch Truſtee ſhall always be a ſufficient quorum to proceed on buſineſs, and ſhall have full power and authority to adjourn from time to time, not exceeding ſeven days at any one time, as the duties of their truſt may require. And it ſhall and may be lawful to and for ſuch quorum of the ſaid Truſtees, when aſſembled and met in manner aforeſaid, or the major part of them, from time to time to appoint a Treaſurer and Clerk, Principal, Maſters, Tutors, Teachers and other neceſſary officers; to aſcertain their reſpective ſalaries, and to remove and diſplace any of them at their pleaſure; and to make bye-laws for the admiſſion, education, government, and diſcipline of the ſcholars or ſtudents, and the eſtabliſhment of the price or terms of tuition; for ſecuring, reviſing, and paying out and diſpoſing of the revenues, and in general for conducting and managing the eſtate, buſineſs, and affairs of the ſaid academy, and every matter and thing relating thereto, in ſuch manner as they ſhall judge to be moſt conducive to its intereſt and proſperity, and the end of their truſt.

Such Truſtees to have a common ſeal.

Senior Truſtee to call meetings and preſide therein.

Major part of Truſtees to form a quorum.

And to appoint officers, &c.

And

And in order to preſerve the ſucceſſion of Truſtees for the ſaid Academiesr reſpectively :

Vacancies of ſaid Truſtees how to be filled up.

XV. *Be it further enacted by the authority aforeſaid*, That whenever a vacancy ſhall happen in any Corporation of Truſtees, by the death, reſignation or refuſal to act of any Truſtee, it ſhall and may be lawful for the Truſtees of ſuch Academy, and they are hereby authorized and required, at any legal meeting of the Truſtees, to elect and chooſe a fit perſon to fill up and ſupply ſuch vacancy.

And for the greater encouragement of ſuch Academies. and to render them more uſeful and reſpectable.

Regents of the Univerſity to viſit all Academies.

XVI. *Be it further enacted by the authority aforeſaid*, That the Regents of the Univerſity ſhall be viſitors of ſuch Academies, and the Chancellor, vice Chancellor, or a Committee of the Regents, ſhall as often as they ſee proper viſit ſuch Academies to enquire into the ſtate and progreſs of Literature therein.

Scholars educated in any Academy, how admitted into Colleges.

XVII. *And be it further enacted by the authority aforeſaid*, That when any Scholar who ſhall be educated at any of the ſaid Academies, on due examination by the Preſident and Profeſſors of Columbia College, or any other College, ſubject to the viſitation of the ſaid Regents, ſhall be found competent in the judgment of the ſaid Preſident and Profeſſors, to enter into the ſophimore, junior or ſenior claſſes, of ſuch Colleges reſpectively, ſuch ſcholar ſhall be entitled to an admiſſion into ſuch of ſuch of the ſaid claſſes for which he ſhall be ſo adjudged competent, and ſhall be admitted accordingly, at any one of the quarterly examinations of ſuch reſpective claſſes. *Provided always*,

Certain things to be done by Truſtees of Academies to entitle their ſcholars to ſuch admiſſion.

XVIII. *And be it further enacted by the authority aforeſaid*, That to entitle the ſcholars of any ſuch Academy to the privileges aforeſaid, the Truſtees thereof ſhall lay before the Regents of the ſaid Univerſity, from time to time, the plan or ſyſtem propoſed to be adopted, for the education of the Students in each of the ſaid Academies reſpectively, in order that the ſame may be reviſed and examined by the ſaid Regents, and by them be altered or amended, or approved and confirmed, as they ſhall judge proper.

When Regents may allow Truſtees elect Preſidents for their Academy, &c.

XIX. *And be it further enacted by the authority aforeſaid*, That whenever it ſhall appear to the ſaid Regents, that the State of Literature in any Academy is ſo far advanced, and the funds will admit thereof, that it may be expedient that a Preſident be appointed for ſuch Academy ; the ſaid Regents ſhall in ſuch caſe ſignify their approbation thereof, under their common ſeal, which being entered of record as aforeſaid, ſhall authorize the Truſtees of ſuch Academy to elect a Preſident, who ſhall have, hold and enjoy, all the powers that the Preſident of any College recognized by this act, ſhall or may lawfully have, hold and enjoy ; and ſuch Academy thereafter, inſtead of being called an Academy, ſhall be called and known by the ſame name it was called while it was an Academy, except that the word College ſhall be uſed in all caſes inſtead of the word Academy ; and be ſubject to the like rules, regulations, controul and viſitation of the Regents, as other Colleges mentioned in this act.

No Preſident or Profeſſor ineligible for his religious tenets, &c.

XX. *And be it further enacted by the authority aforeſaid*, That no Preſident or Profeſſor ſhall be ineligible for or by reaſon of any religious tenet or tenets that he may or ſhall profeſs ; or be compelled by any law or otherwiſe to take any teſt oath whatſoever ; and no Profeſſor or Tutor of any college or academy recognized by this act ſhall be a Truſtee of any ſuch college or academy, nor ſhall any Preſident of any college, or Principal of any academy, who ſhall be a Truſtee, have a vote in any caſe relating to his own ſalary or emoluments ; nor ſhall any Truſtee, Preſident, Principal, Tutor, Fellow, or other officer of any college or academy, be a Regent of the Univerſity.

A Perſon appointed to two truſts, may make his election.

XXI. *And be it further enacted by the authority aforeſaid*, That whenever any perſon now or hereafter appointed a Truſtee of any college or academy, ſhall be appointed or elected a Regent of the Univerſity, and whenever any perſon being a Regent of the Univerſity, ſhall be appointed or elected a Truſtee of any college or academy, ſuch perſon ſo appointed or elected ſhall, on due notice thereof, decide and elect in which of the ſaid places he will ſerve, and by writing under his hand ſhall make known ſuch election, whether of refuſal or acceptance, to thoſe by whom he was elected, to the end

that ſuch appointment may take effect, in caſe he accept it, or that they proceed to a new appointment in caſe he refuſe it.

Certain acts repealed

XXII. *And be it further enacted by the authority aforeſaid*, That the act, entitled, "An act for granting certain privileges to the college heretofore called King's college, for altering the name and charter thereof, and erecting an Univerſity within this State," paſſed the 1ſt day of May, 1784; and the act, entitled, "An act to amend an act, entitled, an act for granting certain privileges to the college heretofore called King's college, for altering the name and charter thereof, and erecting an Univerſity within this State," paſſed the 26th day of November, 1784, be, and they are hereby ſeverally repealed.

## CHAP. LXXXIII.

AN ACT *acceding to the Act of Congreſs of the ſecond Day of Auguſt, One thouſand ſeven hundred and eighty-ſix.* Paſſed the 13th of April, 1787.

Preamble.

WHEREAS the United States in Congreſs aſſembled, in and by their act of the ſecond day of Auguſt, one thouſand ſeven hundred and eighty-ſix, have made a requiſition on this State for the ſum of one hundred and eighty-five thouſand five hundred and ſixty-ſeven dollars to be paid into the treaſury of the United States, in ſpecie, and likewiſe the further ſum of one hundred and thirty-ſeven thouſand four hundred and thirty-four dollars, to be paid in indents of intereſt on loan-office certificates, and upon other certificates of the liquidated debts of the United States. *Therefore*,

Treaſurer to pay to the Continental Loan Officer, &c. certain ſums in ſpecie and certificates.

I. BE *it enacted by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That it ſhall be lawful for the Treaſurer of this State, and he is hereby required to pay to the Continental Loan-Officer within this State, or to the order of the United States in Congreſs aſſembled, the aforeſaid ſum of one hundred and eighty-five thouſand five hundred and ſixty-ſeven dollars; and alſo the further ſum of one hundred and thirty ſeven thouſand four hundred and thirty-four dollars in certificates iſſued, or to be iſſued, in payment of the intereſt of the domeſtic debt of the United States, agreeable to the requiſition of Congreſs of the ſecond day of Auguſt, one thouſand ſeven hundred and eighty-ſix.

Proviſo.

*Provided nevertheleſs*, That it ſhall be lawful for the ſaid Treaſurer, and he is hereby required to deduct out of the aforeſaid ſum of one hundred and eighty-five thouſand five hundred and ſixty-ſeven dollars, ſo to be paid into the treaſury of the United States as aforeſaid, the ſum of twenty-nine thouſand three hundred and three dollars, and twenty-four ninetieths of a dollar, being the balance due to this State, for monies overpaid on former requiſitions of the thirtieth of October, one thouſand ſeven hundred and eighty one, and ſubſequent thereto; together with all ſuch ſum or ſums as ſhall be paid on or before the firſt day of June next, for the penſions of invalids who are inhabitants of this State, and all ſuch ſum or ſums of money as the ſaid Treaſurer ſhall on or before the firſt day of July next, pay out of the treaſury of this State, in purſuance of an act, entitled, "An act making proviſion for officers, ſoldiers, and ſeamen, who have been diſabled in the ſervice of the United States.

Treaſurer when and how to pay the above ſums.

II. *And be it further enacted by the authority aforeſaid*, That of the monies now in the treaſury of this State, or which ſhall hereafter come into the ſame, for any duties or taxes heretofore impoſed or laid, or hereafter to be impoſed or laid, and which may not have been already otherwiſe appropriated, or ſo much thereof as may be neceſſary, ſhall be applied by the Treaſurer, and he is hereby required to apply and pay the ſame in manner following, that is to ſay; So much thereof as ſhall be requiſite for that purpoſe, ſhall in the firſt place be applied to the payment of the civil liſt, and contingent expences of this State, as the ſame may be hereafter ſpecified and provided for; and out of the reſidue thereof, a ſum ſufficient to diſcharge one half the amount of the requiſition aforeſaid, after ſuch deduction thereout as aforeſaid, ſhall, as ſoon as the ſame ſhall come into the treaſury, be applied towards the payment of the ſaid requiſition, and the remaining half of the amount of the requiſition aforeſaid, ſhall be paid out of any monies

which

which ſhall remain or come into the Treaſury, and be unappropriated at the adjournment of the Legiſlature at their preſent meeting.

Treaſurer how to proceed with certificates, &c.

III. *And be it further enacted by the authority aforeſaid*, That the ſaid Treaſurer ſhall, from time to time, tranſmit to the Continental Loan-Officer within this State, all ſuch loan-office certificates iſſued out of the ſaid loan-office, as now are, or hereafter from time to time ſhall come into his hands, and all other certificates of the liquidated debts of the United States, which by any law of this State are or may be receivable in the treaſury, and have the intereſt ſettled and certified, agreeable to the directions of the aforeſaid act of the United States in Congreſs aſſembled, of the ſecond day of Auguſt, one thouſand ſeven hundred and eighty-ſix: And that the ſaid Treaſurer ſhall alſo tranſmit all ſuch loan-office certificates as have been iſſued out of the loan-offices of any other of the United States, and which now are, or may hereafter from time to time come into his hands to the loan-offices from which ſuch loan-office certificates reſpectively iſſued, and have the intereſt ſettled and certified as by the ſaid act of Congreſs is directed: and the intereſt due on all ſuch loan-office certificates as aforeſaid, and upon all other certificates of the liquidated debts of the United States, ſo ſettled and certified as aforeſaid, ſhall pay towards the diſcharge of the aforeſaid ſum of one hundred and thirty-ſeven thouſand four hundred and thirty-four dollars, ſo to be paid into the treaſury of the United States as aforeſaid. And for preventing the depreciation of certificates to be iſſued in purſuance of the ſaid act of Congreſs of the ſecond day of Auguſt, one thouſand ſeven hundred and eighty-ſix:

Time when certificates may be preſented in payment.

IV. *Be it further enacted by the authority aforeſaid*, That if on the firſt day of July, one thouſand ſeven hundred and eighty-ſeven, certificates ſo to be iſſued as aforeſaid, to the amount of the ſaid ſum of one hundred and thirty-ſeven thouſand four hundred and thirty-four dollars, ſhall not be in the hands of the Treaſurer of this State, or ſhall not by him before that time be paid to the Continental Loan-Officer within this State, or to the order of the United States in Congreſs aſſembled, the deficiency ſhall be paid into the Continental treaſury, or to the order of the United States in Congreſs aſſembled, in ſpecie, by the Treaſurer of this State, out of any monies which may be in the treaſury.

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## CHAP. LXXXIV.

AN ACT *to remove cercertain Obſtructions in the Navigation of Hudſon's River.* Paſſed the 13th of April, 1787.

Preamble.

WHEREAS it has been repreſented to the Legiſlature, that it is neceſſary that certain obſtructions in the navigation of Hudſon's river ſhould be removed: *Therefore,*

Veſſels aſcending the Overſlagh, to pay tonage.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That every veſſel of the burthen of ten tons or upwards, which ſhall, from and after the fifteenth day of May next, croſs the bar in the ſaid river, about three miles below the city of Albany, commonly called the *Overſlagh*, in aſcending the ſaid river, ſhall pay a tonnage of three pence for every ton ſuch veſſel ſhall meaſure, as often as ſuch veſſel ſhall croſs the ſaid bar in aſcending the ſaid river; provided that no ſcow ſhall be ſubject to the payment of ſuch tonnage.

Corporation of Albany to appoint Commiſſioners and a Clerk.

II. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Mayor, Aldermen, and Commonalty of the city of Albany, in Common Council convened, from time to time, and as often as they ſhall deem it neceſſary, to appoint one or more Commiſſioner or Commiſſioners, not exceeding three, and a Clerk, for the purpoſes herein after mentioned. That the ſaid Commiſſioner or Commiſſioners ſhall not receive any fee or reward, for any ſervices to be performed by him or them, in purſuance of this act.

III. *And*

Maſters of veſſels croſſing ſaid bar, to make report, &c.

III. *And be it further enacted by the authority aforeſaid*, That every Maſter, or perſon having the command of any veſſel ſhall, within two days after ſuch veſſel ſhall have croſſed the ſaid bar, in aſcending the ſaid river, make report to the ſaid Clerk, of the dimenſions of ſuch veſſel; which report the ſaid Clerk ſhall enter in a book, to be kept by him for that purpoſe; and if any Maſter, or perſon having the command of ſuch veſſel, ſhall make a report which ſuch Clerk ſhall have reaſon to believe is fraudulent, it ſhall and may be lawful to and for ſuch Clerk to cauſe a fit perſon to ſurvey and take the exact dimenſions of ſuch veſſel, and compute her tonnage in manner following, that is to ſay, Three fifths of the beam to be deducted from the length of the main deck, the remainder multiplied by the breadth of the beam, that ſum multiplied by half the breadth of the beam, for the depth of the hold, that divided by ninety-five to be deemed the contents of the veſſel in tons; but if ſuch veſſel ſhall be a ſingle decked veſſel, to multiply her length and breadth by her depth in the hold from ſkin to ſkin, and divide the ſame by ninety-five as aforeſaid. And if upon ſuch ſurvey and calculation, it ſhall appear that the number of tons contained in ſuch veſſel exceed the tons mentioned in ſuch report, the Maſter, or perſon having the command of ſuch veſſel, ſhall be ſubject to the payment of the ſum of five ſhillings for every ton which the tonnage of ſuch veſſel ſhall exceed the number of tons mentioned in ſuch report; and that if any Maſter, or perſon having the command of any veſſel croſſing the ſaid bar, in aſcending the ſaid river as aforeſaid, ſhall neglect or refuſe to make ſuch report, within the time for that purpoſe herein before limited, every ſuch Maſter, or perſon having the command of ſuch veſſel, ſhall forfeit for every ſuch neglect or refuſal, the ſum of thirty ſhillings.

Penalty in caſe of a falſe report,

and of neglect,

Proviſo.

*Provided*, That no perſon ſhall be compelled to make report of the contents of any veſſel more than once in any one year, ſuch year to be computed to commence from the firſt day of March in every year; but ſhall nevertheleſs make report of the arrival of ſuch veſſel, as often as ſuch veſſel ſhall croſs the ſaid bar.

Tonage when to be paid.

IV. *And be it further enacted by the authority aforeſaid*, That the ſaid tonnage ſhall be paid to ſuch Clerk, within three days after any veſſel ſubject to the payment of tonnage, ſhall have croſſed the ſaid bar; and that if any perſon, ſubject to the payment of the ſaid tonnage, ſhall neglect or refuſe to pay the ſame, longer than the time for that purpoſe herein before limited, he ſhall forfeit the ſum of three pounds for every ſuch neglect or refuſal.

Forfeitures how to be recovered and applied.

V. *And be it further enacted by the authority aforeſaid*, That all forfeitures to be incurred for neglect or refuſal of any matter or thing required by this act, ſhall and may be recovered in an action of debt, with coſts, by and in the name of ſuch Clerk, before the Mayor, Recorder, or any one of the Aldermen of the city of Albany, or any Juſtice of the Peace of any county in this State, and ſhall be paid and applied in like manner as the product of the ſaid tonnage is herein directed to be paid and applied.

Clerk to take an oath and enter into recognizance.

VI. *And be it further enacted by the authority aforeſaid*, That the clerk to be appointed as aforeſaid, ſhall, previous to his performing any of the duties enjoined on him by this act, take an oath before the Mayor, Recorder, or any of the Aldermen of the city of Albany, well, faithfully and impartially to execute the duties required of him by this act, according to the beſt of his knowledge and abilities; and ſhall enter into a recognizance, before ſuch Mayor or Recorder, to the Chamberlain of the ſaid city of Albany, in the ſum of five hundred pounds, with one ſufficient ſurety, in the ſum of two hundred and fifty pounds, conditioned, that the ſaid Clerk will faithfully and impartially execute the duties required of him by this act, according to the beſt of knowledge and abilities.

Penalty in caſe of an attempt to evade the ſaid tonnage.

VII. *And be it further enacted by the authority aforeſaid*, That if any Maſter or perſon, having the command of any veſſel, ſubject to ſuch tonnage, ſhall, with intent to evade the payment of the ſaid tonnage, hereby impoſed on ſuch veſſel, ſail from any part of the ſaid river, above the ſaid bar, to any part of the ſaid river below the ſaid bar, without having paid the ſaid tonnage, every maſter or perſon, having the command of ſuch veſſel, ſhall for every ſuch offence, forfeit the further ſum of ten pounds.

VIII. *And*

VIII. *And be it further enacted by the authority aforeſaid*, That the ſaid clerk, ſhall be allowed for his ſervices, a ſum not exceeding ten per cent on all monies, actually received by him, for and on account of the ſaid tonnage, to be retained out of the monies to be raiſed and collected by virtue of this act; and that the reſidue of the monies ariſing from the ſaid tonnage hereby impoſed, ſhall from time to time be paid to the commiſſioners, to be appointed as aforeſaid, to be by them applied for the purpoſe of removing any obſtructions in the navigation of the ſaid river, within fourteen miles, of and below the city of Albany, in ſuch manner as to them or a major part of them, ſhall in their diſcretion, appear fit and moſt effectual to remove ſuch obſtructions.

Allowance to clerk for ſervices, and monies by him received to be paid to commiſſioners.

IX. *And be it further enacted by the authority aforeſaid*, That the ſaid commiſſioners, ſhall once in every year, render regular accounts of their receipts and expenditures, in purſuance of the powers veſted in them, in and by this act, to the Mayor, Aldermen and commonalty of the city of Albany in common council convened.

Commiſſioners annually to render an account to the Corporation of Albany.

X. *And be it further enacted by the authority aforeſaid*, That every veſſel croſſing the bar aforeſaid, upon the return of ſuch veſſel from any place below the ſaid bar, to which ſuch veſſel ſhall have been conveyed for the purpoſe of careening only, and every veſſel laden with wood or ſtone, or croſſing the ſaid bar, to take in part of her lading; to be conveyed to New-York, ſhall be exempted from the payment of the tonnage aforeſaid, upon croſſing the ſaid bar in aſcending the ſaid river. Provided it ſhall be made appear to the ſaid clerk, that ſuch veſſel was carried acroſs the ſaid bar, down the ſaid river; for either of the purpoſes aforeſaid, and for and with no other intent or purpoſe whatſoever.

Veſſels croſſing the ſaid bar in certain caſes exempted from paying tonnage.

XI. *And be it further enacted by the authority aforeſaid*, That this act ſhall remain in force for the term of five years and no longer.

This act to be in force for five years.

## CHAP. LXXXV.

AN ACT *to veſt the eſtate of Richard Maitland, deceaſed, in Truſtees for the payment of his debts.* Paſſed the 14th of April, 1787.

Preamble reciting the ſubſtance of Richard Maitlands will, and the petition of Ann M'Adam &c.

WHEREAS by the petition of Ann M'Adam of the city of New-York, widow of William M'Adam deceaſed, Margaret Ogilvie, widow of John Ogilvie, deceaſed, and Judith Bruce, widow of William Bruce, deceaſed, it hath been repreſented to the Legiſlature, that Richard Maitland, deceaſed, was in his life time ſeized and poſſeſſed, of a conſiderable real and perſonal eſtate, in the State of New-York, that the ſaid Richard Maitland, in and by his laſt will and teſtament, bearing date the ſixteenth day of February in the year of our Lord one thouſand ſeven hundred and ſeventy one, did give, deviſe and bequeath all his eſtate both real and perſonal, to his two natural ſons, Richard and Peter, children of Mary M'Adam, and to the ſaid Mary M'Adam and the child of which ſhe was then pregnant, and their heirs, executors, adminiſtrators and aſſigns reſpectively, equally to be divided among them, ſhare and ſhare alike: That the ſaid Richard Maitland, in and by his ſaid laſt will and teſtament, did requeſt, authorize and impower, his executors therein named, or ſuch of them as ſhould take upon them the execution of his ſaid will, to manage, govern and direct his eſtate, in ſuch manner as they, or the major part of them ſhould think moſt for the advantage of his deviſees. And in caſe his executors, or ſuch of them, as ſhould take upon them the execution of his ſaid will, or the major part of them, ſhould think fit or eſteem it for the benefit of his deviſees, he did by his ſaid will deſire, authoriſe and impower his ſaid executors, and the ſurvivors and ſurvivor of them, who would at any time take upon them the execution of his ſaid will, to grant bargain and ſell, all or any part or parts of his real eſtate; and of his ſaid will did appoint Alexander Maitland, and the ſaid William M'Adam,

John Ogilvie and William Bruce deceaſed, the reſpective huſbands of the petitioners; and Thomas Moncrieff and the ſurvivors and ſurvivor of them, to be executors or executor. That after making the ſame will, the ſaid Mary M'Adam had iſſue, one other ſon named John, and that ſoon thereafter ſhe was intermarried with the ſaid Richard Maitland, and had iſſue another ſon named James, who was born after the deceaſe of the ſaid Richard Maitland, that the ſaid Richard Maitland, died ſome time in the year one thouſand ſeven hundred and ſeventy two, and that the ſaid William M'Adam, John Ogilvie and William Bruce, proved his will, and took upon themſelves the execution thereof, but that the ſaid Alexander Maitland and Thomas Moncrieff, never became acting executors thereof; that the ſaid Richard Maitland was, in his life time, indebted to Sampſon Simſon and Solomon Simſon reſpectively, in very conſiderable ſums of money; and that the reſpective huſbands of the petitioners together with the ſaid Thomas Moncrieff, became jointly and ſeverally bound for the payment thereof, by two ſeveral bonds executed by them to the ſaid Sampſon Simſon and Solomon Simſon reſpectively, which monies are ſtill due; that the ſaid Richard Maitland was, at the time of his death, alſo indebted to the ſaid William M'Adam deceaſed, in very conſiderable ſums of money, and that after the death of the ſaid Richard Maitland, other ſums of money were paid and advanced by the ſaid William M'Adam, in his life time, for the eſtate of the ſaid Richard Maitland deceaſed; part of all which monies are unpaid, and due to the petitioner Ann M'Adam, as ſole legatee and executrix of the laſt will and teſtament of the ſaid William M'Adam deceaſed. And that the ſaid Richard Maitland was in his life time, alſo indebted to other perſons, all which ſums of money, are alſo yet due and unpaid; that the ſaid William M'Adam, John Ogilvie, and William Bruce are dead, and that the ſaid Alexander Maitland, reſides in that part of Great-Britain called England; and that the ſaid Thomas Moncrieff in Halifax, or ſome other part of the Britiſh dominions, and have never taken upon themſelves the executorſhip of the will of the ſaid Richard Maitland deceaſed. That all the children of the ſaid Richard Maitland deceaſed, are infants, and that the two eldeſt reſide in that part of Great-Britain called England, and the two youngeſt in the State of New-Jerſey; that by reaſon of the death of the ſaid William M'Adam, John Ogilvie and William Bruce, and the abſcence of the other executors aforeſaid, the eſtate of the ſaid Richard Maitland deceaſed, cannot be ſold and diſpoſed of, for the payment of his debts, and the maintenance and ſupport of his widow and children, in the manner directed by his will; and thereupon praying that the eſtate both real and perſonal, of the ſaid Richard Maitland, deceaſed, may be by a law, veſted in Truſtees, and that the whole or ſuch part thereof, as may be neceſſary for thoſe purpoſes, may be directed to be ſold, as well for the payment of the debts due therefrom, as for the maintenance and education of the children of the ſaid Richard Maitland deceaſed. And the prayer of the ſaid petitioners appearing to be juſt and reaſonable.

*Therefore*,

Said eſtate veſted in truſtees to be ſold by them.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That all the eſtate, real and perſonal, of the ſaid Richard Maitland deceaſed, ſhall, at and immediately after the paſſing of this act be, and the ſame is hereby veſted in Truſtees, to wit, Daniel M'Cormick, William Cockburn and Richard Varick, their heirs and aſſigns; who are hereby authorized and impowered, as ſoon as may be convenient to ſell and diſpoſe of all or ſo much of the ſame real and perſonal eſtate of the ſaid Richard Maitland, deceaſed, as they may deem ſufficient, to pay and diſcharge the debts due therefrom; at ſuch time and times, in ſuch manner, to ſuch perſon or perſons, and for ſuch ſum or ſums of money, as they the ſaid Truſtees, or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, ſhall deem moſt conducive to the intereſt of the deviſees, of the ſaid Richard Maitland, deceaſed, and their repreſentatives; and to ſeal execute and deliver, good and ſufficient deeds and conveyances, to the purchaſer or purchaſers of ſuch real eſtate; which ſale or ſales ſo made, and the deeds and conveyances for the ſame by the ſaid Truſtees, or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor are hereby declared to be good and effectual, to all intents and purpoſes, in law and equity, to veſt in ſuch purchaſer or purchaſers, the whole eſtate, right, title, property and intereſt, which the

the ſaid Richard Maitland deceaſed, had in ſuch real eſtate, and every part thereof, at the time of his death.

Truſtees impowered to bring ſuits for any part of the eſtate.

II. *And be it further enacted by the authority aforeſaid*, That the ſaid Truſtees, and the ſurvivors and ſurvivor of them, and the heirs, executors and adminiſtrators of ſuch ſurvivor, and every of them, are hereby authorized impowered and required (in caſe it ſhall become neceſſary) in their own names, to bring one or more ſuit or ſuits in law or equity, as the caſe may require, for any part or parts of the real or perſonal eſtate of, or debts due to the ſaid Richard Maitland, deceaſed, or to his executors aforeſaid; or any of them, for and in behalf of the eſtate of the ſaid Richard Maitland, deceaſed.

Truſtees when they have converted the eſtate into money, to notify the creditors, &c.

III. *And be it further enacted by the authority aforeſaid*, That after the ſaid Truſtees, and the ſurvivors and ſurvivor of them, ſhall have proceeded to convert all the eſtate, real and perſonal of the ſaid Richard Maitland, deceaſed, or ſo much thereof as they or he ſhall deem ſufficient, to pay and diſcharge the debts due therefrom into money, and ſhall have collected the debts due to the ſame eſtate, they or the ſurvivors or ſurvivor of them, or the heirs, executors or adminiſtrators of ſuch ſurvivor, ſhall at ſome time after the expiration of two years, and within two years and ſix months, after the paſſing of this act, cauſe to be publiſhed in two of the public news papers printed in the city of New-York, for four weeks at the leaſt ſucceſſively, a notification of a time and place, in the ſaid city, at which the ſaid Truſtees or any two of them, or the ſurvivors or ſurvivor of them, intend to meet, to make a dividend or diſtribution among the creditors, and thereby requiring all perſons having demands againſt the eſtate of the ſaid Richard Maitland, deceaſed, to produce their accounts to the ſaid Truſtees, and to prove ſuch of their reſpective demands, as have not been before preſented and proved. That thereupon previous to any dividend, debts due to the People of this State, for taxes and quitrents, ſhall be firſt paid; then all coſts of ſuit, and ſuch other charges, expences and diſburſements, as ſhall be neceſſarily expended by the ſaid Truſtees, and the allowance herein after made, to the Truſtees for their care and trouble, ſhall be firſt paid; that the ſaid Truſtees or any two of them, or the ſurvivors or ſurvivor of them, ſhall then at the ſaid meeting, and other ſubſequent meetings, to be continued by adjournments if neceſſary, forthwith cauſe a dividend or diſtribution to be made, of all the monies, which ſhall have come to his or their hands, as Truſtees of the eſtate and effects of the ſaid Richard Maitland, deceaſed, among ſuch of the creditors as ſhall have then preſented and duly proved their demands. But if the ſaid monies ſhall be inſufficient to pay to the creditors, their whole demands, then to pay to them reſpectively, an equal part in proportion to the debts due to them reſpectively without any preference to bonds or other ſealed inſtruments. And further, that if any creditor or creditors, ſhall neglect or refuſe to preſent and prove his, her, or their demand, until after a dividend ſhall have been made of the monies and effects, in the hands of the ſaid Truſtees, or the ſurvivors or ſurvivor of them, ſuch creditor or creditors, ſhall not be entitled to any dividend; and the whole monies in hand to be divided, ſhall be divided among the other creditors.

Dividend how to be made.

Second dividend how to be made.

IV. *And be it further enacted by the authority aforeſaid*, That in caſe the monies ſo to be raiſed by the ſale of the real eſtate, and recovery of the debts due the eſtate of the ſaid Richard Maitland, ſhall be inſufficient to pay the whole demands of all the creditors, the ſaid Truſtees, or the ſurvivors or ſurvivor of them, ſhall proceed to a ſale of the remainder of the real eſtate of the ſaid Richard Maitland, deceaſed, in manner above directed; and that the ſecond dividend of the monies ariſing from ſuch ſale, ſhall take place within three years and ſix months from the paſſing of this act, on the like previous notice being publiſhed in two of the public newſpapers as aforeſaid. And in caſe any creditor or creditors reſpectively, ſhall preſent and duly prove to the Truſtees aforeſaid, or any two of them, or the ſurvivors or ſurvivor of them, his, her, or their debt or demand as aforeſaid, before the time appointed for ſuch ſecond dividend, then ſuch creditor or creditors ſhall have his, her, or their firſt dividend, or ſo much money as he, ſhe, or they would otherwiſe have been entitled to in the firſt diviſion, before any ſecond dividend ſhall be made.

V. *And*

Allowance to Truſtees.

V. *And be it further enacted by the authority aforeſaid,* That the ſaid Truſtees, and the ſurvivors and ſurvivor of them, ſhall be allowed, and ſhall and may retain in his or their hands, for his or their care and trouble, and the ſervices to be performed by them, the ſum of five per cent. on all the monies which ſhall come to their hands by virtue of this act, before each dividend made, over and above all ſuch coſts of ſuit, chargas, expences, and diſburſements, as ſhall be neceſſarily laid out and expended in the premiſes aforeſaid.

Remainder of the eſtate how to be diſpoſed of.

VI. *And be it further enacted by the authority aforeſaid,* That if there ſhall remain any real or perſonal eſtate, after the payment of the debts due from the eſtate of the ſaid Richard Maitland, deceaſed, as aforeſaid, that then the ſame ſhall be, to all intents and purpoſes, reveſted in the deviſees and legatees of the ſaid Richard Maitland, and their lawful repreſentatives, in the ſame manner as the ſame was before the paſſing of this act, any thing herein contained to the contrary notwithſtanding.

Truſtees to give bond for the faithful performance of their duty.

VII. *And be it further enacted by the authority aforeſaid,* That the ſaid Truſtees ſhall, before they exerciſe any of the powers to them hereby given, reſpectively file in the Court of Chancery a bond to the Regiſter, or one of the Clerks of the ſaid court, in ſuch penalty, and with ſuch ſurety and ſureties, as the Chancellor ſhall think fit; with a condition that they reſpectively will well and faithfully diſcharge the truſt veſted in them by this act, and render a juſt account of their diſpoſition of the ſaid eſtate, when thereunto required.

Truſtees how to be accountable.

VIII. *And be it further enacted by the authority aforeſaid,* That the ſaid Truſtees ſhall not, nor ſhall either of them, or the heirs, executors, or adminiſtrators of either of them, be anſwerable, or accountable for any money to be received by virtue of, or under the truſt hereby repoſed in them, any otherwiſe than each perſon for ſuch ſum and ſums of money as he or they ſhall reſpectively actually receive, or give a receipt or receipts for, and that no one of them ſhall be anſwerable for the acts, receipts, neglects, or defaults of any other of them.

Proviſo.

*Provided always,* That this act ſhall not be in force, but the ſame is hereby ſuſpended, until the Chancellor, upon examination of the facts and circumſtances in the ſaid petition ſet forth, ſhall certify that this act may take effect, without prejudice to any infant, or *feme covert*, whom it may concern; and it ſhall be the duty of the Chancellor, upon application to him by the ſaid petitioners, or any of them, to examine into the ſaid facts and circumſtances; and if it ſhall appear to him, that this act may take effect, without prejudice to any of the perſons aforeſaid, to certify the ſame, which certificate ſhall be recorded in the Secretary's office; whereupon this act ſhall be and remain in full force.

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## CHAP. LXXXVI.

AN ACT *for the more effectual Collection of the Arrears of the Tax therein mentioned, and for the Relief of Perſons improperly taxed in the City and County of New-York, and for other Purpoſes.* Paſſed the 14th of April, 1787.

Preamble.

WHEREAS the Mayor, Aldermen, and Commonalty of the city of New-York, in Common Council convened, have by their petition repreſented to the Legiſlature, that ſundry arrears of the tax directed to be raiſed in the city and county of New-York, in and by the law of this State, entitled, "An act for raiſing one hundred thouſand pounds within the ſeveral counties therein mentioned," are yet unpaid; and that divers perſons have been aggrieved as they alledge, in the aſſeſſment thereof; that the proviſions made by the Legiſlature for collecting thoſe arrears, and redreſſing the grievances complained of, have hitherto proved ineffectual, principally by reaſon that thoſe arrears were due either from perſons who reſided in the out-ward, the Collector of which abſconded with his aſſeſſment-roll, or tax-book, and has not, till lately, put it in the power of the Common Council; or from perſons who, between the time of aſſeſſment and collection, departed the ſaid city: That for hearing and determining every claim

claim to a reimburſement of the taxes improperly aſſeſſed, a quorum of all the members of the Common Council is by law made neceſſary; and that from the numerous complaints of injuſtice, this duty cannot be diſcharged without great delay and injury to the members of that board; and thereupon praying that the Legiſlature will make further proviſion in the premiſes; the prayer of which ſaid petition appears to be reaſonable.

*Therefore,*

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful for the Mayor, Recorder, and Aldermen of the ſaid city, or the major part of them, of whom the Mayor or Recorder always to be one, to meet together at ſuch times and places, within the ſaid city, as they may think proper, and to examine the aſſeſſment-rolls and rate-liſts, made in purſuance of the ſame law, what ſums of money remain unpaid by any of the freeholders, reſidents, and inhabitants within the ſeveral wards of the ſaid city, of the ſame tax of one hundred thouſand pounds; and where they find any ſum or ſums of money uncollected, and the perſons or eſtates charged with the ſame, are ſufficient to pay the ſame, they ſhall iſſue their warrants to the Collectors for the time being, of the ſame reſpective wards in which ſuch ſums remain unpaid, for the collection thereof; and the reſpective Collectors ſhall levy and collect all ſuch ſums, and ſhall pay the ſame to the Treaſurer or Chamberlain of the ſaid city for the time being, at ſuch time as the ſaid Mayor, Recorder, and Aldermen, in their ſaid warrant ſhall direct, to be applied in the manner herein after mentioned, after deducting therefrom four pence in the pound for his or their trouble in collecting the ſame.

Mayor, &c. to determine concerning arrears of city taxes.

II. *And be it further enacted by the authority aforeſaid,* That in all caſes where the Collector of any ward in the ſaid City ſhall have received any part of the tax aforeſaid, and not paid the ſame to the Treaſurer of this State, it ſhall be lawful for the Treaſurer or Chamberlain of the ſaid city for the time being, to commence and proſecute to judgment and execution, a ſuit or ſuits for the recovery thereof, with coſts, in his own name, as Treaſurer or Chamberlain of the ſaid city, againſt ſuch Collector, his executors or adminiſtrators, in an action on the caſe, for monies had and received for the uſe of the ſaid city and county of New-York; in which ſuits it ſhall be ſufficient to ſet forth in the declaration that the Collector is, or in his life time was indebted to the ſaid Treaſurer or Chamberlain of the ſaid city, in a certain ſum, for ſo much money by him, as Collector of ſuch ward, before that rime had and received for the uſe of the ſaid city and county; and being ſo thereof indebted, promiſed to pay the ſame to the ſaid Treaſurer or Chamberlain when required, without ſetting forth the ſpecial matter: And that no ſuch ſuit or action ſhall be abated or diſcontinued by the death, reſignation, or removal from office of any ſuch Treaſurer or Chamberlain, but the ſame ſhall or may be proſecuted to effect, by his ſucceſſor in office. And further, that if any Collector ſhall neglect the duty by this act required of him, he ſhall be chargeable with the monies ſo directed to be levied and collected, to be recovered by the Treaſurer or Chamberlain of the ſaid city for the time being, with coſts, in manner aforeſaid.

Chamberlain to proſecute delinquent Collectors.

III. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the ſaid Mayor, Recorder, and Aldermen of the ſaid city, or any five or more of them, of whom the Mayor or Recorder always to be one, to meet together at ſuch times and places within the ſaid city as they may think proper, and to examine whether the eſtates real or perſonal of any, and which of the freeholders, reſidents, or inhabitants within the ſeveral wards of the ſaid city, were not within the deſcription of perſons deſigned to be taxed by virtue of the ſaid law; and if any perſon ſhall make proof to the ſatisfaction of the ſaid Mayor, Recorder, and Aldermen, or to the major part of them, who ſhall be ſo met as aforeſaid, of his, her, or their being taxed, and not being within the deſcription of the perſons deſigned to be taxed as aforeſaid, and that ſuch perſon or perſons hath or have paid the ſame tax to the Collector, they ſhall allow the ſame, and ſhall thereupon, by warrant under their hands and ſeals, directed to the Treaſurer or Chamberlain of the ſaid city, order the whole amount of the ſaid ſum ſo aſſeſſed and collected, together with the intereſt of the ſame, from the time it was received by the Collector, to be paid to the perſon or perſons ſo improperly taxed, or his, her, or their legal repreſentative. And if any ſuch tax which by the ſaid Mayor or Recor-

Mayor, &c. to give relief in certain caſes.

der and Aldermen ſo met, ſhall be adjudged to have been improperly aſſeſſed, ſhall not have been collected, it ſhall and may be lawful for the ſaid Mayor or Recorder and Aldermen, ſo met as aforeſaid, by warrant or order under their hands and ſeals, to direct the Collector of the ward in which ſuch tax ſhall remain to be collected, to ſurceaſe from calling the ſame. And further, that if the monies to be collected in virtue of this act, ſhall be inſufficient to pay all the demands of the perſons who ſhall be ſo as aforeſaid adjudged to have been improperly taxed, it ſhall be the duty of the ſaid Mayor, Recorder, and Aldermen, to order a rateable proportion of the monies ſo collected, to be paid to the reſpective perſons who ſhall be adjudged to have been improperly taxed as aforeſaid.

Mayor, &c. on a requeſt, may allow a Jury of Enquiry.

IV. *And be it further enacted by the authority aforeſaid,* That if any perſon, who ſhall conceive himſelf or herſelf not within the deſcription of perſons liable to be taxed as aforeſaid, ſhall be deſirous of having a Jury to inveſtigate the facts ſuggeſted by him or her, it ſhall be lawful for the ſaid Mayor or Recorder and Aldermen, on the application of the ſaid perſon, to iſſue a precept to the Sheriff of the city and county of New-York, commanding him to ſummon twelve freemen or freeholders of the ſaid city and county, to enquire into the facts ſo ſuggeſted by the perſon ſo taxed as aforeſaid, at a day and place in the ſame precept to be mentioned. And the ſaid Sheriff, with the perſons ſo ſummoned by him as aforeſaid, ſhall proceed to inquire into the facts ſuggeſted by the perſon ſo taxed, and ſhall report the facts ſo found by them, under their hands and ſeals, to the ſaid Mayor or Recorder and Aldermen; and the ſaid Mayor or Recorder and Aldermen ſhall determine upon the facts reported to them, whether the ſaid perſon was within the deſcription of perſons liable to be taxed as aforeſaid, or not; and in caſe he or ſhe was not, they ſhall proceed to give him or her relief in manner aforeſaid. And in caſe the perſons ſo ſummoned, ſhall not attend at the time and place appointed in the precept aforeſaid, the Sheriff ſhall ſummon them to attend at ſome other day and place, giving the perſon ſo taxed two days notice of the ſame; and the ſame fees ſhall be allowed to the Sheriff and Jurors, for the buſineſs done in purſuance of this act, as they are allowed on other civil inqueſts; and ſhall be paid by the party who applied for the inqueſt, in caſe he ſhall be within the deſcription of perſons liable to be taxed in virtue of the law aforeſaid; and to be recovered by the Sheriff in any court of record having cognizance of the ſame. And in caſe he ſhall not be within the deſcription of perſons liable to be taxed as aforeſaid, then the coſts ſhall be paid by him or her, and he or ſhe ſhall have the ſame relief from the Mayor, Recorder, and Aldermen, as is provided reſpecting the tax ſo paid by him or her as aforeſaid.

Fees allowed on ſuch inqueſt.

Chamberlain's fees; and monies how to be applied.

V. *And be it further enacted by the authority aforeſaid,* That the Treaſurer or Chamberlain of the ſaid city, ſhall and may retain in his own hands the ſum of two pence in the pound, and no more, for his trouble in receiving and paying out the monies, by this act directed to be collected. And further, that if any monies ſo to be collected as aforeſaid, ſhall remain in the hands of the ſame Treaſurer or Chamberlain, after reimburſing the perſons improperly taxed as aforeſaid, in manner aforeſaid, it ſhall and may be lawful for the ſaid Mayor, Recorder, and Aldermen, and they are hereby required to order the reſidue of the ſame monies ſo to be collected as aforeſaid, to be applied to the purchaſe of ſuch ſum in certificates iſſued or to be iſſued by the Treaſurer of this State, as ſhall amount in nominal ſpecie value, excluſive of intereſt, to the amount of the arrears due from the city and county of New-York, and to pay the certificates ſo purchaſed into the treaſury of this State, on or before the firſt day of January next, in diſcharge of ſuch arrears, any thing in this or any other act to the contrary hereof in any wiſe notwithſtanding.

Certain act in part repealed.

VI. *And be it further enacted by the authority aforeſaid,* That the act entitled, "An act for the relief of perſons improperly taxed," and the act entitled, "An act for the more effectual collection of the arrears of taxes," ſo far as the ſame extend to the city and county of New-York be, and the ſame hereby are ſeverally repealed.

Recital.

And whereas, Philetus Oſborn, Collector of taxes in the townſhip of Eaſt Hampton, in the county of Suffolk, is confined in gaol, for not having collected the tax laid on the ſaid town, by virtue of the ſaid act, entitled, "An act for raiſing one hundred thouſand pounds within the counties therein mentioned." And whereas the amount

amount of the ſaid tax has been paid into the treaſury of this State, and the monies now to be collected, are to be applied to the uſe of the ſaid county; and the ſaid Philetus Oſborn hath prayed a further time to collect the arrears of the ſaid taxes.

*Therefore.*

Philetus Oſburn, Collector of East Hampton to be diſcharged from his confinement, &c.

VIII. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Sheriff to diſcharge the ſaid Philetus Oſbburn from his confinement, and that it ſhall and may be lawful for him the ſaid Philetus Oſburn, and he is hereby authorized and required, to collect the arrears of the ſaid taxes, and to pay the ſame to the Treaſurer of the ſaid county; and if he ſhall not collect and pay the ſame. before the firſt day of June next, he ſhall be liable to be proſecutad for his default in the ſame manner as he was when he was proſecuted as aforeſaid.

## CHAP. LXXXVII.

AN ACT *for the relief of Jeſſe Huut.* Paſſed the 16th of April, 1787.

Preamble.

WHEREAS Jeſſe Hunt, late Sheriff of the county of Weſtcheſter, hath by his petition repreſented that he was Sheriff of the county of Weſtcheſter, from the nineteenth day of March one thouſand ſeven hundred and eighty one, to the nineteenth day of March, one thouſand ſeven hundred and eighty five; that the goal of the ſaid county was deſtroyed in 1776, and there being no place for the confinement of priſoners on civil proceſs, until the Legiſlature by an act paſſed the 2d of March, 1784, authorized the Sheriff of the ſaid county, to repair the goal in the late borough of Weſtcheſter, and to confine priſoners therein, on civil proceſs until ſuch time as a goal could be built in the ſaid county, and which goal was not repaired until the fifteenth of June following. That during the ſaid Sheriffs continuance in office and previous to the repairing of the goal at the ſaid borough of Weſtcheſter he was frequently under the neceſſity of returning *cepi corpus* on proceſs, when in fact he could not get bail for many perſons, who knowing that there was no goal abſolutely refuſed to give bail on arreſt, by which means the ſaid Jeſſe Hunt has become expoſed to many ſuits for eſcapes on *meſne proceſs*; and to exonerate him from which he has prayed the intervention of the Legiſlature.

*Therefore,*

Jeſſe Hunt diſcharged from all actions of eſcape, &c.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That in any action or ſuit whatſoever which has been or may be brought againſt the ſaid Jeſſe Hunt, for any eſcape which happened before the the fifteenth day of June, one thouſand ſeven hundred and eighty four, it ſhall be lawful for the ſaid Jeſſe Hunt to plead the general iſſue, and give the ſpecial matter in evidence. And if upon the trial of ſuch iſſue, it ſhall be made appear to the ſatisfaction of the Jury that ſuch eſcape was wholly owing to the want of a ſufficient goal in the ſaid county, and not to any neglect, omiſſion or miſconduct of the ſaid Jeſſe Hunt, the ſaid Jury ſhall find a verdict for the defendant and he ſhall be thereupon diſcharged from ſuch ſuit or action.

CHAP.

## CHAP. LXXXVIII.

AN ACT *for regulating the buildings, Streets, Wharfs and Slips in the city of New-York.* Paſſed the 16th of April, 1787.

Preamble.

WHEREAS for the encouragement of the trade and commerce of this State, it is neceſſary that the buildings, ſtreets, wharfs and ſlips in the city of New-York, ſhould be regulated with uniformity, for the accomodation of habitations, ſhipping and tranſportation: Wherefore, to remove all impediments or obſtructions that may retard ſo neceſſary a work.

Mayor, Aldermen and commonalty of New-York to paſs bye-laws, &c.

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful, to and for the Mayor, Aldermen and commonalty of the city of New-York, in Common Council convened, from time to time to make ſuch bye laws, ordinances, rules and orders for the better regulating and arranging with uniformity, ſuch new buldings as ſhall after the paſſing of this act be erected, for habitations or for the purpoſes of trade and commerce; and alſo for regulating and altering the ſtreets, wharfs and ſlips in ſuch manner as ſhall be moſt commodions for ſhipping and tranſportation; and alſo at their will and pleaſure, from time to time, to nominate and appoint two or more diſcreet and intelligent perſons to be ſurveyors of the buildings, ſtreets, wharfs and ſlips of the ſaid city, whoſe office and duty it ſhall be to direct andſee, that all buildings, ſtreets, wharfs and ſlips to be laid out or altered in the ſaid city, be regulated with uniformity, for the accomodation of habitations, ſhipping, trade, and commerce, according to ſuch bye-laws, ordinances, rules and orders, as by the common council of the ſaid city ſhall be for that purpoſe, from time to time ordained and eſtabliſhed; which ſaid ſurveyors ſhall reſpectively, before they enter upon the duties of their ſaid offices, take the following oath, before the Mayor or Recorder, *viz.*

And to appoint ſurveyors of ſuch buildinga & ſtreets.

Oath to be taken by ſurveyors.

"I ——— ——— appointed a ſurveyor of the city of New-York, do ſwear in "the preſence of Almighty God, that I will faithfully, truly and impartially, exe- "cute the office of one the ſurveyors of the ſame city."

Recital.

And whereas in the laying out of new lots of gronnd for buildings, controverſies may ariſe, by reaſon that a lot or lots, if built upon to their full extent, would incommode and obſtruct ſome ſtreet of the ſaid city, and be hurtful to the trade and health of the inhabitants thereof: *Therefore,*

Mayor, &c. requiring ground to compenſate for the ſame and how.

II. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful, to and for the Mayor, Aldermen and commonalty of the ſaid city in Common Council convened, to hinder and prevent any building or buildings; that may narrow or encroach upon any ſtreet within the ſaid city: And if in the doing thereof, or in the laying out for the future, any ſtreets, wharfs or ſlips, they ſhall require for ſuch purpoſes, the ground of any perſon or perſons, they ſhall give notice thereof to the owner or parties intereſted in ſuch ground, or his, her or their agent or legal repreſentative: And to the end that reaſonable ſatisfaction may be made for ſuch ground as ſhall be neceſſary for the uſes aforeſaid, the ſaid Common Council ſhall and may treat with the owners or perſons intereſted therein, or his, her or their agent or legal repreſentative; and if any ſuch owner or owners, ſhall refuſe to treat in manner aforeſaid, then and in ſuch caſe, it ſhall and may be lawful, to and for the Mayor or Recorder, and any two or more Aldermen, by virtue of this act, by a precept under their hands and ſeals, to command the Sheriff of the ſaid city and county of New-York, to impannel and return, and he is hereby required to impannel and return a Jury to appear before the Mayors court of the ſaid city, at any term thereof, not leſs than three weeks from the date of ſuch precept, to enquire of and aſſeſs the damages and recompence due to the owner or owners of ſuch ground, or his, her, or their agent or legal repreſentative, and at the ſame time to ſummon the owner or owners of ſuch ground by notice to be left at his her or their moſt uſual place of abode, to appear before ſuch Mayor Court, on the day and at the place in ſuch precept to be ſpecified; which Jury being firſt duly ſworn faithfully and impar-

tially

tially to inquire into, and aſſeſs the damages in queſtion, and having viewed the premiſes if neceſſary, ſhall inquire of and aſſeſs ſuch damages and recompence, as they ſhall under all the circumſtances judge fit to be awarded to the owner or owners of ſuch ground for their reſpective loſſes, according to their ſeveral intereſts and eſtates therein. And the verdict of ſuch Jury, and the judgement of the ſaid Mayor's Court thereupon, and the payment of the ſum or ſums of money ſo awarded and adjudged to the owner or owners thereof, or tender and refuſal hereof, ſhall be concluſive and binding to all intents and purpoſes againſt the ſaid owner and owners, his, her, and their reſpective heirs, executors, adminiſtrators and aſſigns, claiming any eſtate or intereſt of, in, or to the ſame ground, and it ſhall thereupon be lawful, to and for the ſaid Mayor, Aldermen and commonalty of the city of New-York and their ſucceſſors, to cauſe the ſame ground to be converted to and uſed for the purpoſes aforeſaid.

Recital.

And whereas the dirt and ſoil lying in the ſtreets, doth often prove a common nuiſance, and very prejudicial to the health of the inhabitants of the ſame city. For remedy whereof,

Mayor, &c. may enact laws for regulating the city.

IV. *Be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Mayor, Aldermen, and Commonalty of the ſaid city, in Common Council convened, by ordinances and bye-laws for that purpoſe to be made and ordained from time to time, and in ſuch manner as they ſhall judge to be moſt conducive to health and public convenience, to cauſe common ſewers, drains, and vaults to be made and conſtructed in any part of the ſaid city, and to order and direct the pitching and paving the ſtreets thereof, and the cutting into any drain or ſewer already made, or to be made; and the altering, amending, cleanſing and ſcouring of any ſtreet, vault, ſink, or common ſewer, within the ſame city. And for the better effecting thereof it ſhall and may be lawful to and for the Mayor, Aldermen, and Commonalty of the ſaid city, in Common Council convened, to cauſe to be made an eſtimate or eſtimates of the expence of conforming to ſuch regulations as aforeſaid, and a juſt and equitable aſſeſſment thereof among the owners or occupants of all the houſes and lots intended to be benefitted thereby, in proportion, as nearly as may be, to the advantage which each ſhall be deemed to acquire reſpectively. And in order that the ſame may be faithfully and impartially performed, the ſaid Common Council ſhall from time to time appoint five ſufficient and diſintereſted freeholders for every ſuch purpoſe, who, before they enter upon the execution of their truſt, ſhall be duly ſworn before the ſaid Mayor or Recorder, to make the ſaid eſtimate and aſſeſſment fairly and impartially, according to the beſt of their ſkill and judgment, and a certificate in writing of ſuch eſtimate and aſſeſſment being returned to the ſaid Common Council, and ratified by them, ſhall be binding and concluſive upon the owners and occupants of ſuch lots ſo to be aſſeſſed reſpectively; and ſuch owners or occupants reſpectively ſhall thereupon become, and be liable and chargeable, and they are hereby required, upon demand, to pay to ſuch perſon as ſhall be authoriſed by the ſaid Common Council to receive the ſame, the ſum at which ſuch houſe or lot ſhall be ſo aſſeſſed, to be employed and applied for and towards the making, altering, amending, pitching, paving, cleaning, and ſcouring ſuch ſtreets, and making, conſtructing, and repairing ſuch vaults, drains, and ſewers as aforeſaid; and in default of payment thereof, or any part thereof, it ſhall and may be lawful to and for the Mayor Recorder, and Aldermen of the ſame city, or any five of them, of whom the Mayor or Recorder always to be one, by warrant under their hands and ſeals, to levy the ſaid ſum and ſums of money ſo aſſeſſed, by diſtreſs and ſale of the goods and chattels of the owner or occupant of ſuch houſe or lot ſo aſſeſſed, and refuſing or neglecting to pay the ſame, rendering the overplus, if any there be, after deducting the ſum aſſeſſed, and the charges of diſtreſs and ſale, to ſuch owner or occupant reſpectively, or their legal repreſentatives.

Expences how to be eſtimated and aſſeſſed.

How to be collected and applied.

This act not to affect any agreement between landlord and tenant.

V. *Provided always, and be it further enacted by the authority aforeſaid*, That nothing in the laſt mentioned clauſe of this act contained, ſhall be conſtrued to affect any contract or agreement that hath been made, or ſhall be made between any landlord and tenant, reſpecting the payment of any ſuch charges or repairs, but they ſhall be anſwerable to each other in the ſame manner as if this act had never been made. And further, in caſe any money ſo from time to time to be aſſeſſed for the ſervices aforeſaid, ſhall be paid by any perſon, when by agreement or by law the ſame ought to have been borne and paid by ſome

other perſon, that then it ſhall and may be lawful to and for the perſon ſo paying the ſame, and he ſhall be, and hereby is empowered and authoriſed to ſue for and recover the ſame with intereſt and coſts of ſuit, in any court having lawful cognizance thereof, as ſo much money paid for the uſe of the perſon for whom or for whoſe uſe the ſame ſhall have been paid; and the aſſeſſment aforeſaid, with proof of payment, ſhall be concluſive evidence to ſuch court, and judgment and execution ſhall be awarded accordingly.

Recital.

*And whereas*, more effectually to accommodate the trade, and preſerve the health of the citizens, it is neceſſary in certain parts of the city, to level adjoining lots, by raiſing ſome, and reducing others, in order to draw away the ſtagnate water and filth, and render the ſtreets dry, and the paſſage eaſy and convenient, and it frequently happens that there are vacant lots, owned by perſons who refuſe to contribute to any expence with reſpect to their lots, or the ſtreets on which they are bounded, however detrimental ſuch refuſal may prove to the proprietors of the adjacent lots, and the public good.

*For remedy whereof*,

In general regulations for levelling ſtreets, owners of lots to pay expence.

VI. *Be it further enacted by the authority aforeſaid*, That when in any ſuch caſe a general regulation ſhall be judged neceſſary in any part of the city, and be ordered and directed by any ordinance or bye-law of the ſaid Mayor, Aldermen, and Commonalty of the ſaid city, in Common Council convened, for raiſing, reducing, levelling, or fencing in any ſuch lot or lots as aforeſaid, it ſhall and may be lawful to and for the ſaid Common Council to cauſe an eſtimate to be made of the whole expence of conforming to ſuch regulation, with reſpect to each lot which the owner thereof ſhall refuſe or neglect to put in the order thereby required; which eſtimate ſhall be made and certified under the hands and ſeals of five ſufficient freeholders, to be appointed for that purpoſe, and ſworn in manner aforeſaid; and the ſame eſtimate being duly returned to, and approved by the ſaid Common Council, they ſhall take order for advertiſing the ſame, in two or more of the public newſpapers printed in the ſaid city, for three weeks, thereby requiring the owners of ſuch lots reſpectively, to pay the ſum at which the ſaid lots ſhall be ſo aſſeſſed, to the Treaſurer or Chamberlain of the ſaid city, to defray the expence of the intended work; and that if default ſhall be made in ſuch payment, ſuch lot will be ſold at public auction, at a day and place therein to be ſpecified, for the loweſt term of years at which any perſon ſhall offer to take the ſame, in conſideration of advancing the ſum aſſeſſed on the ſame, for the expence aforeſaid. And if, notwithſtanding ſuch notice and demand, the owner or owners ſhould refuſe or neglect to pay ſuch aſſeſſment, with the charge of appraiſement and advertiſement, then it ſhall and may be lawful to and for the ſaid Common Council to cauſe the ſaid lot to be ſold at public auction for a term of years, for the purpoſes and in the manner expreſſed in the ſaid advertiſement, and to give a declaration of ſuch ſale to the purchaſer thereof, under the common ſeal of the ſaid city; and ſuch purchaſer, his executors, adminiſtrators, and aſſigns, ſhall, by virtue thereof, and of this act, lawfully hold and enjoy the ſame for his and their own proper uſe, againſt the owner or owners thereof, and all claiming under him or them, until his term therein ſhall be fully complete and ended; being at liberty to remove all the buildings, and materials which he, ſhe, or they ſhall erect or place thereon, but leaving the ground in ſufficient fence, and with the ſtreet or ſtreet fronting the ſame, in the order required by the ſaid regulations, any law uſage or cuſtom to the contrary thereof notwithſtanding.

Penalty for default.

Proviſo.

*Provided always*, That if after defraying the actual expence of conforming any lot, ſo to be ſold for a term of years, to the regulations aforeſaid, and deducting all reaſonable charges attending the ſame, a ſurplus of the purchaſe money, bidden or given therefor, at ſuch auction, ſhall remain in the hands of the Chamberlain or Treaſurer of the ſaid city, the ſame ſhall forwith be rendered to the owner or owners of ſuch lot or lots reſpectively, or his, her, or their reſpective legal repreſentatives.

If the firſt eſtimate proves inſufficient to defray the expences a ſecond may be made.

VII. *And be it further enacted by the authority aforeſaid*, That if upon the completion of any ſuch regulation as aforeſaid, it ſhall appear to the Mayor, Aldermen, and Commonalty of the ſaid city in Common Council convened, that a greater ſum of money hath been *bona fide*, expended in making ſuch regulation, than the ſum mentioned in the eſtimate ſo made as aforeſaid, and actually collected, it ſhall and may be lawful to and for the ſaid Common Council, to cauſe a further aſſeſſment to be made, of the

ſum,

ſum, which ſuch *bona fide* expenditures ſhall exceed the ſum ſo eſtimated and collected as aforeſaid, upon and among the owners or occupants of all the houſes and lots before aſſeſſed as aforeſaid, and to cauſe the ſame to be collected in the ſame manner as herein before directed. And further that in caſe the ſum actually expended ſhall be leſs than the ſum expreſſed in ſuch eſtimate, and actually collected as aforeſaid, the ſurplus ſhall be forthwith rendered to the reſpective perſons from whom the ſame were ſo collected and received as aforeſaid, or his, her, or their reſpective legal repreſentatives.

## CHAP. LXXXIX.

AN ACT *for the more ſpeedy recovery of debts to the value of Ten Pounds.* Paſſed the 17th of April, 1787.

All actions for debts not exceeding ten pounds cognizable, &c.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That from and after the firſt day of June next, all actions of debt, detinue, account, covenant, treſpaſs, and treſpaſs on the caſe wherein the ſum or ballance due, or thing demanded, ſhall not exceed ten pounds current money of this State, ſhall be and hereby are made cognizable before any Juſtice of the peace, of any city or county of this State; and every ſuch Juſtice ſhall be, and hereby is reſpectively authorized and impowered, to hear, try, and determine all ſuch cauſes and actions, according to law and equity; and ſhall and may hold a court for the trial thereof, and is hereby veſted with all ſuch power and authority for the purpoſe aforeſaid, as is uſual in courts of record in this State; and ſhall ſign all proceſs to be iſſued out of ſuch court. And further that every ſuch Juſtice of the peace, upon application to him made for the recovery of any ſuch debt damages or demand, ſhall iſſue a ſummons or warrant as the caſe may require, directed to ſome conſtable or other proper officer, of the city, town or place where the defendant dwells or can be found, commanding him when a ſummons is iſſued, to ſummon the defendant to appear before ſuch Juſtice, at a certain time and place, in the ſame ſummons to be expreſſed, not leſs than ſix, nor more than twelve days from the time of iſſuing ſuch ſummons, to anſwer the plaintiff of the plea in the ſame ſummons to be mentioned, and when a warrant is iſſued then commanding the conſtable or other officer, to take the defendant and bring him or her, forthwith before ſuch Juſtice, to anſwer the Plaintiff of the plea in the ſame warrant to be mentioned, and upon the return of ſuch ſummons if the ſame be duly ſerved, or upon bringing the defendant before ſuch Juſtice, by virtue of any ſuch warrant, or at ſuch other time and place, as the ſame Juſtice ſhall think reaſonable to appoint, not exceeding ſix days thereafter, the ſame Juſtice ſhall proceed to hear and examine the allegations and proofs of the parties, plaintiff and defendant, and within four days thereafter, give judgment thereon in ſuch manner as ſhall appear to him, to be agreeable to law and equity, together with coſts of ſuit, as hereafter allowed.

Juſtice how to proceed for the recovery of debts.

First proceſs againſt freeholders, &c.

II. *And be it further enacted by the authority aforeſaid,* That the firſt proceſs againſt all freeholders and inhabitants having families (except as hereafter is excepted) ſhall be by ſummons, which ſhall be ſerved at leaſt ſix days before the time of appearance mentioned therein by reading the ſame ſummons to the defendant, and delivering to him or her, a copy thereof when required, if he or ſhe, ſhall be found, and if not, by leaving a copy thereof at his or her houſe or place of abode, in the preſence of ſome one of the family, of ſuitable age and diſcretion, who ſhall be informed of the contents thereof; and the conſtable or officer ſerving ſuch ſummons, ſhall upon the oath of his office, indorſe thereupon the time and manner he executed the ſame, and ſign his name thereto. And in caſe the defendant does not appear at the time and place appointed in ſuch ſummons, and it ſhall appear by the return indorſed thereon, that the ſummons was duly ſerved upon the perſon of the defendant, in the manner aforeſaid, and no ſufficient reaſon ſhall appear to the Juſtice, why the defendant does not appear at the time appointed, then the ſaid Juſtice who

What is to be done where defendant does not appear on ſuch ſummons.

iſſued

iſſued the ſaid ſummons, ſhall proceed to hear, try and determine the cauſe, in the ſame manner as if the defendant had appeared; but if ſuch ſummons was ſerved only by leaving a copy thereof at the houſe or place of abode of the defendant as aforeſaid, and the defendant does not appear at the time and place appointed in ſuch ſummons, and no ſufficient reaſon ſhall appear to the Juſtice, why the defendant does not appear, then the ſaid Juſtice ſhall iſſue a warrant againſt ſuch defendant, in the manner aforeſaid, and proceed as above directed, unleſs the plaintiff ſhall elect to have a new ſummons againſt ſuch defendant. And in all caſes where a ſufficient reaſon ſhall appear to the Juſtice, why the defendant does not appear, at the time and place appointed in the ſummons, the Juſtice ſhall give the defendant ſuch further time as he ſhall think reaſonable, and at ſuch time ſo given the Juſtice ſhall and may proceed as aforeſaid. *Provided always,*

When any warrant is iſſued, and the Juſtice is abſent who iſſued it, the next Juſtice may try the cauſe.

III. *And be it further enacted by the authority aforeſaid,* That in all caſes where a warrant ſhall be iſſued by virtue of this act, and upon ſervice thereof, the Juſtice who iſſued the ſame ſhall be abſent, or unable to hear and try the cauſe, it ſhall and may be lawful for the conſtable or other officer ſerving ſuch warrant, to carry the defendant before the next Juſtice of the city or county, where the Juſtice who iſſued the warrant ſhall reſide, and ſuch other Juſtice ſhall take cognizance of and hear, try and determine the cauſe, in the ſame manner, as he could or might have done, if he had iſſued the warrant, by virtue of which the defendant ſhall be taken; but in all other caſes, where any proceſs ſhall be iſſued in purſuance of this act, and ſerved on the defendant, for any debt, damages or demand, of what nature ſoever, the cauſe ſhall be tried before the Juſtice, who firſt iſſued ſuch proceſs and not before any other Juſtice and the defendant if he or ſhe has any account or demand againſt the plaintiff in ſuch action, ſhall and may plead and ſet off the ſame, againſt the debt or demand of the plaintiff.

When there is danger of the plaintiff's loſing his debt, a warrant may be iſſued, &c.

IV. *And be it further enacted by the authority aforeſaid,* That if any plaintiff or his or her attorney, ſo applying for proceſs, ſhall prove upon oath, to the ſatisfaction of the Juſtice, that if ſuch proceſs be by ſummons againſt any ſuch freeholder or inhabitant having a family, the plaintiff will be in danger of loſing his debt, or demand thereby, or doth really and ſincerely believe that ſuch freeholder or inhabitant will depart the city or county, wherein he or ſhe doth reſide, then the Juſtice ſhall iſſue a warrant, in ſuch manner as is above directed.

Parties agreeing cauſe to be tried without ſummons.

V. *And be it further enacted by the authority aforeſaid,* That where any parties ſhall agree to enter an action before any Juſtice, without any proceſs, the Juſtice ſhall proceed to trial, in the ſame manner as if a ſummons or warrant had iſſued.

Juſtice &c. may adjourn a trial.

VI. *And be it further enacted by the authority aforeſaid,* That in all caſes where a warrant ſhall be iſſued if the plaintiff or defendant ſhall require a longer time than is firſt appointed by the court, to try the ſaid cauſe, and will if required give ſufficient ſecurity to appear and ſtand trial, on ſuch other day as ſhall be appointed, then the Juſtice is hereby impowered and required to adjourn the trial of ſuch cauſe to any day he ſhall judge moſt convenient, not exceeding twelve days nor leſs than three days, unleſs the Juſtice and parties ſhall otherwiſe agree.

Proviſo.

*Provided always,* That where the plaintiff in any cauſe or action to be brought by virtue of this act, ſhall be a non-reſident of the county, and ſhall give ſecurity to pay the debt or damages, and coſts of ſuit, in caſe judgment ſhall be given againſt him, that then he may have a warrant returnable immediately; and the Juſtice before whom ſuch cauſe is to be tried, ſhall not adjourn the ſame for more than three days unleſs the parties agree to allow a longer time. And if any adjournment be made without the conſent of the plaintiff, then the defendant ſhall give ſufficient ſecurity for his or her perſonal appearance, on the day to which ſuch adjournment ſhall be made, and in default of ſuch appearance, to pay the debt and coſts, if judgment ſhall be given againſt him or her; and in default of giving ſuch ſecurity the Juſtice ſhall proceed to trial without an adjournment.

VII. *And be it further enacted by the authority aforeſaid,* That no perſon ſhall be proceeded againſt by ſummons out of the city or county where he or ſhe does reſide.

VIII. *And*

Actions on this act how to be tried.

VIII. *And be it further enacted by the authority aforeſaid*, That in every action that ſhall hereafter be brought in this State, by virtue of this act it ſhall be lawful for either of the parties to the ſuit or the attorney of either of them, after iſſue joined, (and before the court ſhall proceed to enquire in to the merits of the cauſe to demand of the ſaid court, that ſuch action be tried by a Jury; and upon ſuch demand, the ſaid Juſtice holding ſuch court is hereby required to iſſue a *venire* directed to any conſtable or other proper officer, of the city, town or place, where the ſaid cauſe is to be tried, commanding him to ſummon twelve good and lawful men, being freeholders or freemen of ſuch city, or being freeholders of ſuch town or place, where the ſaid cauſe is to be tried, and who ſhall be in no wiſe of kin to the plaintiff or defendant, nor intereſted in ſuch ſuit, to be and appear before ſuch Juſtice iſſuing ſuch *venire*, at ſuch time and place as ſhall be expreſſed in ſueh *venire*, to make a Jury for trial of the action between the parties mentioned in the ſaid *venire*, which conſtable, or officer, ſhall at the return of the ſaid *venire*, return a pannel of names of the Jurors, he ſhall ſo ſummon by virtue thereof, and the names of each perſon ſo impannelled, ſhall be written on ſeveral and diſtinct pieces of paper, as nearly of one ſize as may be and ſhall be delivered to the ſaid Juſtice, before whom ſuch action is to be tried, by the conſtable or other officer returning ſuch pannel, and ſhall by the ſaid conſtable or other officer be rolled up, all as near as may be in one; and the ſame manner, and put together in a box or ſome convenient thing, and on the trial of ſuch cauſe, ſuch Juſtice or ſuch indifferent perſon as he ſhall appoint for that purpoſe; ſhall draw out ſix of the ſaid papers, one after another, and if any of the perſons whoſe names ſhall be ſo drawn, ſhall not appear, or ſhall be challenged and ſet aſide, then ſuch further number thereof ſhall be drawn as ſhall make up the number of ſix who do appear, after all legal cauſes of challenge allowed by the ſaid Juſtice unleſs the parties agree that the ſaid conſtable ſhall ſummon ſix men at his diſcretion, and the ſaid ſix perſons ſo firſt drawn and appearing, and approved by the court as indifferent, ſhall be the Jury who ſhall try the cauſe, to each of whom the ſaid Juſtice ſhall adminiſter the following oath,

And on demand Juſtice to iſſue a *venire* to a conſtable.

Who on the return thereof, ſhall return a pannel of the Jurors.

Jurors oath.

"You do ſwear in the preſence of Almighty God, that you will well and truly try the matter in difference between —— ——— plaintiff and —— ——— defendant, and a true verdict will give according to evidence."

And after the ſaid Jury have taken the oath aforeſaid, they ſhall ſit together and hear the ſeveral proofs and allegations of the parties, which ſhall be delivered in public, in their preſence, and to each of the witneſſes on the ſaid trial, the ſaid Juſtice ſhall adminiſter the following oath, *viz.*

Witneſſes oath.

"You do ſwear in the preſence of Almighty God, that the evidence you ſhall give in this matter in difference between —— ——— plaintiff and —— ——— defendant, ſhall be the truth, the whole truth and nothing but the truth."

Jury to be kept together after hearing the evidence until they agree on a verdict.

And after hearing the proofs and allegations, the Jury ſhall be kept together in ſome convenient place, until they all agree upon a verdict; and for which purpoſe a conſtable ſhall be ſworn, and to whom the ſaid Juſtice ſhall adminiſter the following oath, *viz.*

"You do ſwear in the preſence of Almighty God, that you will to the utmoſt of your ability keep every perſon ſworn on this inqueſt together in ſome private and convenient place, without meat or drink, you will not ſuffer any perſon to ſpeak to them, not ſpeak to them yourſelf, unleſs by order of the Juſtice, unleſs it be to aſk them whether they have agreed on their verdict, until they have agreed on their verdict, and when the Jurors have agreed on their verdict, they ſhall deliver the ſame to the Juſtice in the ſame court, who is hereby required to give judgment thereupon, and to award execution in manner herein after directed."

Which verdict they ſhall deliver to the Juſtice, who ſhall give judgment hereon.

*Provided always*, that no oath of either party, or *exparte* affidavit of any other perſon ſhall be allowed or given in evidence in any ſuch action, unleſs the parties agree to allow of ſuch evidence.

Jurors, &c. refuſing to ſerve, ſubject to a penalty.

IX. *And be it further enacted by the authority aforeſaid*, That every perſon ſummoned and drawn as a Juror or *ſubpœnaed* as a witneſs, who ſhall not appear, or appearing ſhall refuſe to ſerve, or to give evidence in any ſuch action, ſhall forfeit

and pay for every ſuch default or refuſal (unleſs ſome reaſonable cauſe be proved on oath to the ſatisfaction of the ſaid court) ſuch fine or fines not exceeding the ſum of four pounds, nor leſs than five ſhillings, as the ſaid court ſhall think reaſonable to impoſe, and the ſaid court is hereby authorized and required to iſſue a warrant to any conſtable, or other proper officer to levy the ſame, of the goods and chattels of the offender, and for want thereof, to take and convey him or her, to the goal of the city or county wherein the offence ſhall have been committed or for want of a goal in ſuch city or county, then to the neareſt goal, there to remain until he or ſhe pay ſuch fine, together with the coſts attending the ſame. And the keeper of ſuch goal, is hereby commanded to keep ſuch offender in ſafe cuſtody, in ſuch goal, until ſuch fine together with rhe coſts ſhall be paid.

Proviſo. *Provided always*, That no ſuch fine or fines ſhall be impoſed, unleſs oath ſhall firſt have been made, before the court by ſome credible perſon, that ſuch Juror or witneſs ſo in default, hath been lawfully ſummoned or *ſubpœnaed* as aforeſaid, all and every of which ſaid fines, when recovered, ſhall be delivered by the ſaid court, to the overſeers of the poor, for the uſe of the poor of the town or place, where the ſame ſhall be levied.

Coſts how to be awarded, and debt and damages levied and paid.

X. *And be it further enacted by the authority aforeſaid*, That if the plaintiff other than executors or adminiſtrators, in any ſuch action ſhall be nonſuited or diſcontinue, or withdraw his or her action, without the conſent of the defendant, then judgment ſhall be given againſt ſuch plaintiff, for the coſts accrued, or if he or ſhe ſhall appear to be indebted to the defendant, then judgment ſhall be given againſt him or her for the debt or damages and coſts, as the caſe may require, and whenever judgment ſhall be given againſt either plaintiff or defendant, in any of the before mentioned actions, the ſaid court ſhall grant execution thereupon, directed to one of the conſtables or other proper officer, of the city town or place, where the party dwells, or can be found, commanding him to levy the debt or damages and coſts, of the goods and chattels of the perſon againſt whom ſuch execution ſhould be granted; and for want of ſufficient goods and chattels, whereon to levy the ſame, to take the body of the perſon againſt whom ſuch execution ſhall be granted, and him or her, to convey to the goal of ſuch city or county, which ſaid conſtable, or other proper officer, after taking ſuch goods and chattels into his cuſtody by virtue of ſuch execution, ſhall immediately give public notice, by an advertiſement, ſigned by himſelf, and put up at three public places in ſuch city, town or place, where ſuch goods and chattels ſhall be taken, of the time and place, when and where they will be expoſed to ſale, at leaſt five days before the time appointed for ſelling them; and therein deſcribe the goods and chattels ſo taken; and at the time and place ſo appointed for ſelling them, ſhall expoſe them to ſale by public vendue, to the higheſt bidder, and pay the debt or damages, and coſts levied, to the Juſtice who iſſued the execution (returning the overplus if any) to the owner, and for want of goods and chattels, whereon to levy, the ſaid conſtable or other proper officer, ſhall according to the tenor of the ſaid execution, take the body of the perſon againſt whom the ſame execution ſhall be granted, and convey and deliver him or her, to the keeper of the common goal of the city or county, which keeper is hereby commanded to keep ſuch perſon in ſafe cuſtody in the common goal aforeſaid, until the debt or damages with coſts ſhall be fully paid, or untill he or ſhe ſhall be from thence delivered by due courſe of law.

Proviſo. *Provided nevertheleſs* That no execution of any judgment given by virtue of this act, ſhall iſſue againſt any freeholder or inhabitant having a family, in leſs than forty days after giving the ſaid judgment, unleſs the party in whoſe favour judgment ſhall be given, ſhall make it appear to the ſatisfaction of the ſaid Juſtice, on his or her own oath, or the oath of ſome other perſon, that ſuch plaintiff or plaintiffs, will be in danger of looſing the debt or damages, if ſuch delay be allowed; in which caſe the ſaid Juſtice ſhall iſſue execution immediately, as herein before directed, unleſs the party againſt whom ſuch judgment ſhall be given, ſhall thereupon give ſecurity to the party in whoſe favour judgment was given, that he or ſhe, will pay the debt or damages and coſts before or ſurrender himſelf or herſelf in execution, at the expiration of forty days.

XI. *And*

XI. *And be it further enacted by the authority aforeſaid,* That in caſe any conſtable or other proper officer, to whom any execution ſhall be delivered, ſhall not within thirty days after receiving ſuch execution, levy the ſame on the goods and chattels of the perſon againſt whom ſuch execution ſhall be granted, and in ten days thereafter, pay the debt and coſts ſo levied, into the hands of the Juſtice who iſſued the ſame, or in caſe of his death or removal from office, to the perſon in whoſe favour the execution was granted; or if no goods nor chattels can be found, whereon to levy, then if the ſaid conſtable or other officer ſhall not take the body of the perſon againſt whom ſuch execution was granted, if to be found within thirty days from the receipt of ſuch execution as aforeſaid, then and in every ſuch caſe the ſaid conſtable or other officer ſhall be holden to pay the amount of ſuch execution, to be recovered by an action of debt with coſts, by the perſon in whoſe favour ſuch execution was granted, in which caſe execution ſhall iſſue forthwith.

Penalty on conſtable for neglecting to levy executions.

If no goods can be found whereon to levy execution, then the body of the perſon to be taken.

*Provided always,* That neither this act nor any thing herein contained, ſhall be deemed or conſtrued to extend to any action wherein the People of this State ſhall be concerned, or where the title of any lands ſhall in any wiſe come in queſtion, or to any action of aſſault and battery, or of ſlander, not to matters of account where the ſum total of ſuch accounts exceed in the amount or value thereof, the ſum of eighty pounds, and that account proved to the ſatisfaction of the ſaid court.

Proviſo.

XII. *And be it further enacted by the authority aforeſaid,* That when in any action of treſpaſs to be brought by virtue of this act, the defendant or defendants ſhall juſtify on a plea of title, the defendant or defendants ſhall commit ſuch plea of juſtification to writing, and having ſigned the ſame in the preſence of ſuch Juſtice, ſhall deliver ſuch plea to the Juſtice, who ſhall then counterſign the ſame, and deliver it to the plaintiff or plaintiffs; and that it ſhall and may be lawful to and for ſuch plaintiff or plaintiffs, to commence and proſecute an action for ſuch treſpaſs, againſt ſuch defendant or defendants, in the Court of Common Pleas of the county in which ſuch treſpaſs ſhall have been committed; and if ſuch plaintiff or plaintiffs ſhall recover any damages in ſuch action, the defendant or defendants ſhall be liable to pay to ſuch plaintiff or plaintiffs double coſts. And on every trial to be had for ſuch treſpaſs, the plea ſigned by ſuch defendant or defendants, ſhall be concluſive evidence that the defendant or defendants relied on his, her, or their title to juſtify ſuch treſpaſs. And that every Juſtice to whom a plea of juſtification ſhall be tendered, ſhall, before he ſhall receive ſuch plea, exact from the defendant or defendants, together with one ſufficient ſurety, a recognizance in the ſum of twenty pounds, conditioned, that if ſuch plaintiff or plaintiffs, ſhall commence a ſuit before the next Court of Common Pleas, for the recovery of damages for ſuch treſpaſs, ſuch defendant or defendants ſhall appear, and put in ſpecial bail in ſuch court, within twenty days after the firſt day of the then next term of the ſaid court, and that in every caſe in which ſuch plea ſhall be tendered, and the defendant or defendants ſhall not forthwith enter ſuch recognizance, the Juſtice ſhall proceed in the ſame manner as if ſuch plea had not been tendered.

Proceedings on a plea of title.

XIII. *And be it further enacted by the authority aforeſaid,* That all and every ſum and ſums of money, not exceeding the value of ten pounds, to be ſued for and recovered in any court of record, by virtue of any law of this State, ſhall be, and hereby are made cognizable before any one Juſtice of the Peace, in manner aforeſaid, any thing in this or any other act to the contrary in any wiſe notwithſtanding.

Suits notexceeding ten pounds cognizable before a Juſtice.

*And alſo,* That where in any city, town, or place, no Conſtable or other proper officer ſhall be choſen or appointed, or the Conſtable or other proper officer be abſent, or where a proceſs ſhall be iſſued againſt ſuch Conſtable or other proper officer of any city, town, or place, that then, and in ſuch caſe, the Juſtice, upon application made, ſhall and may direct the proceſs or execution to the Conſtable or other proper officer of the next adjoining town or place, living neareſt where the defendant dwells, or can be found, who is hereby required to execute the ſame.

Where there is no Conſtable, proceſs how to iſſue.

XIV. *And be it further enacted by the authority aforeſaid,* That when any proceſs ſhall be iſſued by any Juſtice, by virtue of this act, the Conſtable of the city, town, or place, to whom ſuch proceſs ſhall be directed, ſhall proceed agreeable to this act, and execute ſuch proceſs in his own proper perſon, unleſs the Juſtice who iſſued ſuch proceſs

Conſtable how to proceed.

ceſs ſhall (at the requeſt of the plaintiff) judge it expedient to depute ſome other proper perſon who will voluntarily undertake to execute the ſame without fee or reward; but no perſon ſhall be ſo deputed to impannel or ſummon any Jury.

Coſts allowed.

XV. *And be it further enacted by the authority aforeſaid*, That no greater or other coſts ſhall be allowed, taxed, or taken, in actions brought by virtue of this act, than the following *Juſtices fees*: A ſummons, nine-pence: A warrant, one ſhilling: Judgment, one ſhilling: Adminiſtering every oath, ſix-pence: *Subpæna* for each witneſs, ſix-pence: Iſſuing the *venire facias* to ſummon a Jury, one ſhilling and ſix-pence: Swearing the Jury, one ſhilling: Every execution, one ſhilling and ſix-pence: Every witneſs attending and ſworn, one ſhilling: Conſtable or other proper officer for ſerving a warrant or ſummons notifying the plaintiff to trial, or ſerving an execution, mileage for one mile or under, one ſhilling; for every mile more, ſix-pence.

Proviſo.

*Provided*, That on all precepts to be iſſued by virtue of this act, the fees for ſerving be computed only from the place of abode of the defendant, or where he ſhall be found, to the place where the precept is returnable. Serving every execution, for every pound, one ſhilling: Summoning every Jury, three ſhillings. *Jurors fees*. For all cauſes tried, one ſhilling per man: When ſummoned and attending, and not trying the cauſe, ſix-pence per man: To the Conſtable, or other perſon ſerving *ſubpæna*, one ſhilling for each witneſs; provided that the whole coſts to be recovered or allowed in any cauſe or action, ſhall not exceed the ſum of two pounds.

Who exempted from taking cognizance.

XVI. *And be it further enacted by the authority aforeſaid*, That nothing herein contained ſhall extend to obilge any Juſtice of the Peace, being a member of the Senate or Aſſembly, or any Judge of any county court, to take cognizance of any actions by virtue of this act; but that they ſhall be at liberty, at all times, to act therein, or not, at their diſcretion.

Regulating judgments on this act.

XVII. *And be it further enacted by the authority aforeſaid*, That no judgment, order, or proceeding whatſoever, to be had or made by virtue of this act, ſhall be removed by any writ of error or falſe judgment. And further, that no Juſtice of the Supreme Court ſhall grant or allow any *certiorari*, or other proceſs, to remove any judgment, order, or proceeding whatſoever, to be had by virtue of this act, unleſs the party applying for ſuch *certiorari* ſhall, within thirty days after ſuch judgment given, make affidavit, ſatisfying ſuch Juſtice of the Supreme Court, that there is reaſonable cauſe for granting ſuch *certiorari*, to remove ſuch judgment, either for error therein, or for ſome unfair practice of the Juſtice who ſhall have tried the cauſe; which ſhall be particularly ſpecified in the ſaid affidavit, and which affidavit may be made before one of the Juſtices of the Supreme Court, or one of the Judges of the Court of Common Pleas of the county where ſuch judgment ſhall be given, or before one of the Commiſſioners for taking affidavits to be read in the Supreme Court; and ſuch affidavit ſhall be left with the Juſtice of the Supreme Court, who may allow ſuch *certiorari*, in order that the adverſe party may obtain a copy thereof. And if any *certiorari*, or other writ, ſhall be granted or iſſued otherwiſe than is above mentioned, the ſame ſhall be void, and of none effect. And further, That no execution upon any judgment to be given by virtue of this act, ſhall be prevented or ſtayed by any *certiorari*, or other writ, in caſe the party in whoſe favor ſuch judgment ſhall be given, ſhall give ſuch ſecurity as may be ſatisfactory to the Juſtice by whom ſuch judgment ſhall be given, to reſtore the debt or damages for which ſuch judgment ſhall be obtained, with the intereſt and coſts, in caſe ſuch judgment ſhall be reverſed; and if any judgment to be given by virtue of this act, ſhall be removed into the Supreme Court, by *certiorari* or otherwiſe, and be there confirmed, then the party procuring ſuch *certiorari* ſhall pay to the adverſe party all coſts of defending ſuch ſuit in the Supreme Court, to be taxed; and the party entitled to ſuch coſts ſhall and may have execution for the ſame, out of the ſaid Supreme Court, againſt the body or goods and chattels of the party who ought to pay the ſame: But if ſuch judgment ſhall be reverſed, then the party procuring ſuch *certiorari* ſhall in like manner recover his or her coſts, to be taxed and recovered as aforeſaid.

In what caſes defendants to be precluded.

XVIII. *And be it further enacted by the authority aforeſaid*, That in all cauſes to be brought in purſuance of this act, if the defendant or defendants in ſuch ſuit or action, ſhall neglect or refuſe to plead and give in evidence his, her, or their account or demand

mand, if any he, ſhe, or they have, againſt ſuch plaintiff or plaintiffs, then the defendant or defendants ſo neglecting or refuſing to plead and give in evidence his, her, or their accounts or demands as aforeſaid, ſhall forever thereafter be precluded from having or maintaining any action or actions againſt ſuch plaintiff or plaintiffs for the recovery of ſuch account or demand, or any part thereof. *Provided always*, That where the balance found to be due to the defendant exceeds the ſum of ten pounds, that in every ſuch caſe the defendant ſhall not be precluded or barred from recovering his account or demand againſt ſuch plaintiff, in any other court of record having cognizance of the ſame.

When a Juſtice may poſtpone a trial.

XIX. *And be it further enacted by the authority aforeſaid*, That in caſe the defendant ſhall make oath that he or ſhe cannot, for want of ſome material evidence or witneſs, ſafely proceed to trial, the Juſtice ſhall, in ſuch caſe, poſtpone the trial for ſuch reaſonable time as will enable the defendant to procure ſuch evidence or witneſs; provided ſuch time ſhall not exceed three months; and provided alſo, that ſuch defendant or defendants, before he, ſhe, or they ſhall be entitled to have the trial poſtponed as aforeſaid, ſhall give ſecurity to the ſaid Juſtice, to appear and anſwer the ſaid action, and to pay the debt, and damages, and coſts, in caſe judgment ſhall be given againſt him, her, or them.

Proviſo.

*Provided alſo*, That in any ſuit or action to be brought by virtue of this act, if either the plaintiff or defendant ſhall requeſt an adjournment, he ſhall not be entitled thereunto, unleſs the party requeſting ſuch an adjournment (after having ſeen the account or demand of the adverſe party) ſhall, if required, exhibit his or her account or demand, or ſtate the nature thereof, as far forth as may be in his or her power, to the ſatisfaction of the Juſtice before whom the cauſe is to be tried, any thing in this act to the contrary notwithſtanding.

Council to appoint Aſſiſtant Juſtices.

XX. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the perſon adminiſtering the government of this State for the time being, by and with the advice and conſent of the Council of Appointment for the time being, by commiſſion under the great ſeal, from time to time to conſtitute and appoint ſuch and ſo many proper perſons in the city and county of New-York, as they may think neceſſary, to hear, try, and determine cauſes in the ſaid city and county, by virtue of this act, by the name of Aſſiſtant Juſtices; and each and every of the perſons ſo conſtituted and appointed, ſhall be and hereby are veſted with the like and the ſame power and authority, in the ſame city and county, with reſpect to hearing, trying, and determining cauſes of the value of ten pounds, and under, as are given to, or veſted in the Juſtices of the Peace in the ſeveral counties of this State, by virtue of this act.

No Juſtice keeping a tavern, to try any cauſe.

XXI. *And be it further enacted by the authority aforeſaid*, That no Juſtice of the Peace, nor any perſon ſo to be conſtituted and appointed as aforeſaid, being a tavern-keeper, or inn-keeper, ſhall try any cauſe by virtue of this act.

Conſtables power to execute certain precepts extended.

XXII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for any Conſtable in the counties of Albany, Ulſter, Suffolk, Orange, Montgomery, Waſhington, or Richmond, to execute any ſummons or precept to be iſſued in purſuance of, and by virtue of this act, in any city, town, manor, diſtrict, or precinct, in the county in which ſuch ſummons or precept was iſſued, although the defendant or defendants ſhall not reſide in, or be found in the city, town, manor, diſtrict, or precinct, in and for which ſuch Conſtable ſhall be elected, any thing in this act contained to the contrary thereof in any wiſe notwithſtanding.

*And whereas* ſundry perſons make a practice of pleading in courts held by a Juſtice, and becauſe of the emoluments therefrom ariſing, are induced to promote ſuits.

*For the prevention whereof*,

Attornies in ſuits bro't on this act, to plead without fee.

XXIII. *Be it further enacted by the authority aforeſaid*, That no perſon ſo practiſing, ſhall be permitted by any Juſtice to proſecute, defend, plead, or counſel, in any ſuit or action to be tried by virtue of this act, unleſs ſuch perſon ſo offering or appearing to proſecute, defend, plead, or give counſel as aforeſaid, ſhall previouſly ſwear before ſuch Juſtice, that he has not received or taken any fee or reward for the ſame, either directly or indirectly, nor any other perſon to or for his uſe; and that he will not, directly or indirectly receive or take any fee or reward for the ſame, either by himſelf, or by any other perſon, to or for his uſe.

XXIV. *And be it further enacted by the authority aforeſaid*, That the act, entitled, "An act to empower Juſtices of the Peace, Mayors, Recorders, and Aldermen, to try cauſes to the value of *ten pounds* and under, and to repeal ſundry acts therein mentioned," together with the ſeveral acts therein mentioned; and the act, entitled, "An act ſupplementary to the act, entitled, An act to impower Juſtices of the Peace, Mayors, Recorders, and Aldermen, to try cauſes to the value of ten pounds and under, and to repeal ſundry acts therein mentioned," and the ſeventh enacting clauſe of the act, entitled, "An act to compel Collectors and Conſtables to give ſecurity," ſhall be, and hereby are, from and after the firſt day of June next, repealed; but all ſuits which ſhall be commenced before the ſaid firſt day of June next, and be then depending before any Mayor, Recorder, Alderman, or Juſtice of the Peace within this State, by virtue of any of the acts hereby repealed, ſhall and may be proſecuted to judgment and execution, as fully and effectually as if this act had not been made.

Certain acts herein mentioned, repealed

## CHAP. XC.

AN ACT *to repeal the laws relative to buildings in the city of New-York.* Paſſed the 18th of April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That the act entitled, an act for the more effectual prevention of fires and for regulating of buildings in the city of New-York, and the act, entitled, an act to amend an act for the more effectual prevention of fires and for regulating of buildings in the city of New-York, ſhall be and hereby are repealed.

Two acts repealed.

## CHAP. XCI.

AN ACT *to naturalize the perſons therein named.* Paſſed the 18th of April, 1787.

WHEREAS Arnold Henry Dohrman, John Kemp, David Fitzgerald, John M'Queen, James Roſe, Robert Mills, Joze Roiz Silva, Francis Thomas, John Darah, James F. Atlee, James M'Kell, Patrick M'Kell, Mary Dawſon, Michael M'Lachlin, John Wilſon, John Powell, Benjamin Crookſhank, John Baptiſt Founclaire, Johannes Ditricks, John Wheellan, Charles Wheellan, Daniel Beek, James Thompſon, Frederick Petrey, Thomas Obryne, John Ramage, Nathaniel Smith, George Chriſtian Anthon, Walter Healey, Peter Penet, George Metcalf, Patrick Huſſey, Thomas Brown, John Frederick Moyentz, John Creckenboom, Emanuel Mitchel, Robert Irwin, John Newett, Jean Louis Victor le Tonnelier, John Lewis Chollet, John Peter Vemont, Alexander Macomb, William Wilſon, James Hardie, Walter Minto, Lewis D. Flinn, Chriſtian Abelman, George Williams, Frederick Charles Hans Bruno Poelnitz, and Alexander Lindſay, have by their petitions preſented to the Legiſlature prayed that an act of naturalization might be paſſed in their behalf: *Therefore*,

Preamble,

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That the above named perſons ſhall be, and they are hereby reſpectively naturalized, and ſhall from and after having taken and ſubſcribed, in any court of record within this State, the oath of allegiance to this State, and abjured and renounced all allegiance and ſubjection, to all and every foreign King, Prince, Potentate and State, in all matters eccleſiaſtical, as well as civil, be deemed citizens of this State, to all intents, conſtructions and purpoſes whatſoever. And that the court in which any of the perſons herein

Perſons declared to be naturlized, and to take the oath of abjuration.

herein before mentioned, ſhall be admitted to take ſuch oath, ſhall cauſe an entry thereof to be made in the minutes of the ſaid court; and ſhall give a certificate to ſuch perſons reſpectively, purporting that ſuch perſon hath been admitted to ſuch oath, in the ſaid court, in purſuance of this act, and ſuch perſons upon taking ſuch oath, ſhall reſpectively pay to the Judges of ſuch court ſix ſhillings, and to the clerk thereof, three ſhillings. *Provided always,*

Entry of ſuch oath to be made in the court where the ſame is taken.

II. *And be it further enacted by the authority aforeſaid,* That ſuch of the perſons above named and hereby naturalized as ſhall not take the oath of allegiance and abjuration aforeſaid, in manner herein before directed, within twelve calender months next after the paſſing of this act, ſhall have no manner of benefit by this act; any thing herein contained, to the contrary notwithſtanding.

Perſons not taking the oath in one year not entitled to the benefit of this act.

And whereas it appears to the Legiſlature, that ſeveral of the ſaid perſons have unadviſedly made purchaſes of lands and tenements in this State, and have prayed relief in the premiſes: *Therefore,*

Recital.

III. *And be it further enacted by the authority aforeſaid,* That any lands tenements or hereditaments purchaſed within this State, previous to the paſſing of this act, by any of the perſons herein before mentioned, ſhall not on account of ſuch purchaſe being previous to the paſſing of this act, eſcheat to the People of this State, but ſhall veſt in ſuch purchaſer, or perſons holding under him or her in the ſame manner as if ſuch purchaſer had been naturalized at the time of ſuch purchaſe, any thing in any law to the contrary hereof notwithſtanding.

Land purchaſed by ſuch perſons before their naturalization, declared to be veſted in them.

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## CHAP. XCII.

AN ACT *to amend an Act, entitled, "An Act to regulate the Militia."*
Paſſed the 18th of April, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful to and for the Brigadier or commanding officer of any brigade, and the commanding officer of any regiment not annexed to any brigade reſpectively, if he ſhall deem it expedient, to direct the light infantry of ſuch brigade or regiment to uniform themſelves in rifle frocks and over-alls.

Commander of a brigade may direct the uniform of the light infantry.

II. *And be it further enacted by the authority aforeſaid,* That inſtead of the annual training by brigades, directed in and by the ſaid act, entitled, "*An act to regulate the militia,*" it ſhall and may be lawful for one or more of the regiments of any brigade, if the Brigadier or commanding officer of the brigade ſhall direct it, to rendezvous ſeparately at ſuch of their regimental parades as ſhall be deſignated in brigade orders for that purpoſe; at which parades the Adjutant General ſhall attend and perform the duties enjoined on him in and by the ſaid act, with reſpect to the brigades. That the light infantry companies of ſuch regiments as may be excuſed from attending at the brigade parade, ſhall rendezvous with their reſpective regiments, and ſhall, together with the cavalry and artillery companies of ſuch brigade, perform the like duties as are in and by the ſaid act required, unleſs otherwiſe directed by the Brigadier, or commanding officer of the brigade.

Annual trainings how to be held.

*Provided,* That inſtead of the light-infantry, cavalry, and corps of artillery continuing four days in ſervice, they ſhall not be compelled to continue together any longer than the other militia.

Proviſo.

And whereas diſputes have ariſen reſpecting the rank of commiſſioned officers of the ſame grade, appointed on the ſame day, and the mode preſcribed in and by the ſaid act is in many caſes found inexpedient, and productive of inconveniencies: *Therefore,*

Recital.

III. *Be it further enacted by the authority aforeſaid,* That inſtead of the rank of officers of the ſame grade being determined by the numbering of their commiſſions, as directed in and by the act hereby to be amended, it ſhall and may be lawful to and for the Commander in Chief, from time to time, whenever he ſhall deem it neceſſary,

Mode for ſettling diſputed rank.

to

to appoint a board of officers, conſiſting of not leſs than three, to determine and report to him reſpecting any diſpute concerning rank which ſhall or may have ariſen; which report being approved by the Commander in Chief, ſhall eſtabliſh ſuch diſputed rank, according to the determination of ſuch board.

Part of a former law repealed.

IV. *And be it further enacted by the authority aforeſaid,* That the fifth ſection of the ſaid hereby amended act ſhall be, and the ſame is hereby repealed.

Grenadier companies how to be formed.

V. *And be it further enacted by the authority aforeſaid,* That when and as often as forty men of the enrolled militia in the city and county of New-York (excepting ſuch as ſhall be enrolled in the cavalry, artillery, or light infantry) ſhall incline to arm, accoutre, and uniform themſelves as a company of grenadiers, it ſhall and may be lawful to and for the Brigadier, or officer commanding the brigade within the limits of which any ſuch company ſhall be inclined to form, to direct ſuch company to be formed, and to be officered by ſuch Captain, Lieutenant, and Enſign of the regiment in which ſuch company ſhall be propoſed to be formed, as a majority of the field-officers of ſuch regiment ſhall chooſe for that purpoſe. And every ſuch company ſo formed, ſhall be conſidered as one of the companies compoſing ſuch regiment; and after ſuch eſtabliſhment thereof, be armed, accoutred, and uniformed as grenadiers, and do and perfom the like ſervices, and be ſubject to the penalties as are directed and preſcribed in and by the act hereby amended, reſpecting the light infantry.

Officers to reſide in their beats.

VI. *And be it further enacted by the authority aforeſaid,* That all Captains, Lieutenants, and Enſigns of the enrolled militia, except in the cities of New-York and Albany, who ſhall be hereafter appointed, ſhall reſide in the beats of the reſpective companies to which they are appointed.

Fines how applied.

VII. *And be it further enacted by the authority aforeſaid,* That all fines which ſhall be impoſed in any regiment, corps, company, or troop, ſhall be paid into the hands of the paymaſter, or perſon acting as ſuch, of ſuch regiment, corps, company, or troop, and be paid and appropriated by warrant under the hands of a major part of the field-officers, or the commanding officer of the corps, or Captain or commanding officer of the company or troop, as the caſe may be, for the purpoſes of providing colours, drums, and fifes, for their reſpective regiments, corps, companies, and troops, and for the purchaſing and providing arms and accoutrements for ſuch of the men of the ſame reſpective regiments, corps, companies, and troops, as are or ſhall be unable to furniſh and provide themſelves therewith; and that it ſhall be the duty of the Paymaſter, or perſon acting as ſuch, of each reſpective regiment, corps, company, or troop, once in every year, to render an account to the Brigadier, or officer commanding the brigade, of all his receipts and expenditures, in purſuance of this act.

Former exemptions extended.

VIII. *And be it further enacted by the authority aforeſaid,* That the proviſion contained in the ſeventeenth ſection of the ſaid act, entitled, "An act to regulate the militia," and the proviſo thereto annexed, relative to perſons who have ſerved as officers in the line of the army of the United States, during the late war, is hereby extended to all officers who have heretofore ſerved in the militia of this State, or in the militia of the late colony of New-York.

## CHAP. XCIII.

AN ACT *for the Relief of Theodoſius Fowler, and others.* Paſſed the 18th of April, 1787.

Preamble.

WHEREAS all the real and perſonal eſtate of Jonathan Fowler, deceaſed, hath, by his conviction, in purſuance of the act, entitled, "An act for the forfeiture and ſale of the eſtates of perſons who have adhered to the enemies of this State, and for declaring the ſovereignty of the People of this State, in reſpect to all property within the ſame," been forfeited to, and is now veſted in the People of this State. And whereas Theodoſius Fowler, and George Fowler, two of the ſons of the ſaid Jonathan Fowler, and John Johnſon, who intermarried with Abigail, one of the daughters of the

ſaid

ſaid Jonathan Fowler, have preſented a petition to the Legiſlature, ſetting forth that they have, in the courſe of the late war, been well attached to the freedom and independence of the United States of America, and have borne arms in ſupport of the ſame; and that the ſaid Jonathan Fowler died, leaving four helpleſs children, who now depend upon the ſaid Theodoſius Fowler, George Fowler, and John Johnſon, for their ſubſiſtence; and praying the Legiſlature to veſt the ſaid eſtate in them, and the other children of the ſaid Jonathan Fowler, deceaſed; the prayer of which petition the Legiſlature deem it reaſonable to grant. *Therefore,*

Jonathan Fowler's eſtate veſted in his children.

I. BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all the real and perſonal eſtate of the ſaid Jonathan Fowler, deceaſed, forfeited to, and veſted in the People of this State, by his conviction, in purſuance of the act aforeſaid, ſhall be, and hereby is veſted in his children, Theodoſius Fowler, George Fowler, Alexander Fowler, Abraham Fowler, Abigail Johnſon, the wife of the ſaid John Johnſon, Mary Daft, the wife of Thomas Daft, Margaret Fowler, and Livina Fowler, their heirs and aſſigns, as tenants in common, and not as joint tenants; and that it ſhall and may be lawful for the ſaid Theodoſius Fowler, George Fowler, Alexander Fowler, Abraham Fowler, John Johnſon, and Abigail his wife, Thomas Daft, and Mary his wife, Margaret Fowler, and Livina Fowler, and the ſurvivors and ſurvivor of them, in their names, to demand, ſue for, recover, and receive all ſuch debts, and other perſonal property as may be due and belonging to the ſaid eſtate, and that if any or either of the ſaid Theodoſius Fowler, George Fowler, Alexander Fowler, Abraham Fowler, John Johnſon, and Abigail his wife, Thomas Daft, and Mary his wife, Margaret Fowler, and Livina Fowler, ſhall depart this life, pending any ſuit or ſuits by them brought for recovery of any debt, or other perſonal property, due and belonging to the ſaid eſtate, ſuch ſuit or ſuits ſhall not abate by reaſon of the ſaid death or deaths, but it ſhall and may be lawful for the ſurviving plaintiffs or plaintiff in the ſaid ſuit or ſuits, to proſecute the ſame to judgment, and to have execution thereon.

Who are authoriſed to collect the debts.

*Provided,* That nothing in this clauſe of this act contained, ſhall be deemed to extend to any debts or monies which may have been paid into the Treaſury of this State purſuant to the reſolution of the Committee of Safety of this State, of the firſt day of March one thouſand ſeven hundred and ſeventy ſeven, or purſuant to any law of this State.

Proviſo.

II. *And be it further enacted by the authority aforeſaid,* That the ſaid Theodoſius Fowler, George Fowler, Alexander Fowler, Abraham Fowler, John Johnſon, and Abigail his wife, Thomas Daft, and Mary his wife, Margaret Fowler and Livina Fowler, and their reſpective heirs, ſhall be, and hereby are charged with the payment of all debts and demands, due from the ſaid eſtate, to the value of the ſaid eſtate, which ſhall come to their hands reſpectively, and no further; and that the parol ſhall not demur by reaſon of the infancy of either of the defendants, in any ſuit or ſuits, which may brought againſt the ſaid Theodoſius Fowler, George Fowler, Alexander Fowler, Abraham Fowler, John Johnſon and Abigail his wife, Thomas Daft and Mary his wife, Margaret Fowler and Livina Fowler, or their reſpective heirs, for recovery of any debt or demand due from the ſaid eſtate.

Said children charged with the debts due by the ſaid eſtate.

III. *And be it further enacted by the authority aforeſaid,* That the eſtate of Benjamin Cloſe, lately of the county of Weſtcheſter deceaſed, forfeited to the people of this State, by the conviction of the ſaid Benjamin Cloſe, be and the ſame is hereby veſted in Jeſſe Truſdale, Benajah Starr, and David Smith, and their heirs, upon truſt in the firſt place, to pay the debts due from the ſaid Benjamin Cloſe, and after payment thereof, to divide and apply the reſidue of the ſaid eſtate, to and among the perſons following; one third thereof to and among the children of Mary Reynolds, deceaſed wife, of Sylvanus Reynolds, and daughter of the ſaid Benjamin Cloſe, deducting thereout ſo much as may be equal to two third parts of any portion or advancement, given or made by the ſaid Benjamin Cloſe, to the ſaid Mary, if any ſuch portion or advancement there was; and the other two third parts thereof, together with the amount of ſuch deduction, if any there be, to and among the children now living of the ſaid Benjamin Cloſe, except his two ſons Benjamin Cloſe and Abraham Cloſe.

Eſtate of Benjamin Cloſe forfeited to the State, veſted in truſtees for the paying of debts, &c.

Proviſo.

*Provided always*, That one third part of the produce of the ſaid reſidue of the ſaid eſtate, after payment of debts, ſhall be applied by the ſaid truſtees, the ſurvivors and ſurvivor of them, or the heirs of ſuch ſurvivor, to the uſe of the widow of the ſaid Benjamin Cloſe, deceaſed, during her natural life. And the better to enable the ſaid truſtees, to execute the truſt hereby repoſed in them, they are hereby empowered, at their diſcretion to demiſe, ſell, or otherwiſe diſpoſe of, the ſaid eſtate; and the monies ariſing from ſuch ſale, to put at intereſt or otherwiſe, in ſuch manner as ſhall appear to them moſt for the benefit and advantage of the parties intereſted in the ſaid eſtate.

Reciting the caſe of Edward and James Stevenſon.

And whereas Edward Stevenſon, late of the Borough town and county of Weſtcheſter, and late colony of New-York, yeoman deceaſed, in his life time by his bond or obligation, bearing date the ſixth day of Auguſt, in the year of our Lord one thouſand ſeven hundred and ſixty eight, became bound to James Jauncey, then of the city of New-York merchant, for the payment of one thouſand five hundred pounds, lawful money of the late colony of New-York; and for the better ſecuring the payment thereof, he the ſaid Edward Stevenſon and Gloriana his wife, did mortgage his farm at Frogs Neck, in the county of Weſtcheſter aforeſaid, to the ſaid James Jauncey in fee.

Further recital.

And whereas it appears to the Legiſlature, that the ſaid James Jauncey, during the late war between the United States of America and the King of Great Britain, received at different times, of the eſtate of the ſaid Edward Stevenſon, divers ſums of money to the amount of the ſaid bond: *Therefore*,

Stevenſon's bond and mortgage cancelled.

IV. *Be it further enacted by the authority aforeſaid*, That as well the heirs, executors and deviſees of the ſaid Edward Stevenſon, and each and every of them, as the ſaid farm and lands ſo mortgaged to the ſaid James Jauncey, ſhall be and hereby is and are releaſed, acquitted and forever diſcharged of and from the ſaid bond and mortgage, and of and from all actions, ſuits and demands whatſoever, for, by reaſon or on account of the ſame bond and mortgage or either of them.

Reciting that G. Banyar and Hugh Wallace ſold a tract of land to William Johnſon,

And whereas Goldſbrow Banyar and Hugh Wallace, did on or about the third day of June in the year of our Lord one thouſand ſeven hundred and ſeventy five, ſell and convey in fee ſimple, unto William Johnſon, then of the county of Albany Clerk, all that certain parcel of land, part of a larger tract, granted by letters patent to Alexander Wallace and others, the ſixteenth day of June, in the year one thouſand ſeven hundred and ſeventy, ſituated on the ſoutherly ſide of the Suſquehanah River, comprehending the lots, number ſeventy, number ſeventy one, number ſeventy two, and number ſeventy three, beginning on the bank of the ſaid river, at the fence made between John Glaſsford, junior, and William Johnſon, and runs thence ſouth one hundred and eighty chains and fifty links, to the out line of the patent, near a Hemlock corner marked ſixty nine, ſeventy, thence along the ſaid line weſt, fifty nine chains, thence north ſeven degrees and fifteen minutes, eaſt one hundred and eighteen chains and fifty links to the aforeſaid river, thence up the ſtream thereof to the place of beginning; containing five hundred and ſeventy two acres and one half, be the ſame more or leſs. And whereas the ſaid William Johnſon paid part of the conſideration money for the ſaid land and executed a bond and mortgage of the ſame land, to the ſaid Goldſbrow Banyar and Hugh Wallace, to ſecure the payment of the reſidue thereof, being one hundred and fourteen pounds and eight ſhillings. And whereas all the eſtate, both real and perſonal of the ſaid Hugh Wallace, is veſted in the people of the State of New-York, by the attainder of the ſaid Hugh Wallace; and Witter Johnſton ſon and heir of the ſaid William Johnſton, hath paid to the Treaſurer of this State, for the uſe of the State the part and ſhare of the monies which was due to the ſaid Hugh Wallace on the ſaid bond and mortgage. And whereas it is repreſented to the Legiſlature that the conveyance from the ſaid Goldſbrow Banyar and Hugh Wallace, was burnt upon the deſtruction of Cherry Valley in the late war: *Therefore*,

And that Johnſon paid part of the purchaſe money and gave a bond & mortgage for the reſidue.

Hugh Wallace's caſe, &c.

Title of the ſtate in ſaid lands, releaſed to the heirs of ſaid Johnſon.

V. *Be it further enacted by the authority aforeſaid*, That all the eſtate, right, title, intereſt, claim and demand whatſoever both in law and equity, of the people of the State of New-York, of, in and to, or out of the ſaid parcel of land, ſo ſold and conveyed

veyed to the ſaid William Johnſton, and of, in and to, or out of any part or parcel thereof, with the appurtenances, by means of the attainder of the ſaid Hugh Wallace, ſhall be and hereby is granted, releaſed and confirmed, to the heirs and deviſees of the ſaid William Johnſton, deceaſed, and to their heirs and aſſigns forever.

Title of the State in a certain farm, forfeited by the conviction of Andries Kettle, &c. veſted in his widow.

VI. *And be it further enacted by the authority aforeſaid,* That all the eſtate right, title, intereſt, claim and demand of the People of the State of New-York, of, in and to a certain farm or plantation, in the Eke Boſch, in the diſtrict of Kinderhook, in the county of Columbia, forfeited to the People of this State, by the conviction of Andries Kettle late of Kinderhook, deceaſed, ſhall be and hereby is granted to Catherine Kettle, widow of the ſaid Andries Kettle, and to her heirs and aſſigns forever, ſhe paying all debts contracted by her ſaid huſband, prior to the time of his having adhered to the enemies of this State.

James Lamb's eſtate

And whereas the eſtate of James Lamb, late of Haverſtraw in the county of Orange, hath by conviction of the ſaid James Lamb become forfeited to the People of this State. And whereas Jacob Waldron and Catherine his wife, and John Waldron and Elizabeth his wife, the ſaid Catherine and Elizabeth being daughters of the ſaid James Lamb, have by their petition to the Legiſlature, ſet forth, that the ſaid Jacob Waldron and John Waldron being zealouſly attached to the freedom and independence of America, upon the approach of the enemy during the late war, left their habitations, and exerted themſelves in the public ſervice, while their eſtates became a prey to the ravages of the enemy, and praying that ſuch part of the eſtate of the ſaid James Lamb, as remains unſold, may be reſtored to the heirs of the ſaid James Lamb.

And whereas this Legiſlature are ſatisfied of the truth of the repreſentation, and think it proper to grant the prayer of the petition: *Therefore,*

Said eſtate declared to be veſted in his heirs.

VII. *Be it further enacted by the authority aforeſaid,* That ſo much of the eſtate of the ſaid James Lamb, forfeited to the People of this State, as remains unſold and undiſpoſed of, purſuant to any law of this State, be and the ſame is hereby veſted in ſuch perſons (who if the ſaid James Lamb were now dead) according to the preſent law of deſcents within this State, would be the lawful heirs of the ſaid James Lamb as tenants in common, ſubject to the payment of the debts of the ſaid James Lamb for which purpoſe, actions may be brought againſt the ſaid perſons, in the ſame manner, and with the ſame effect as if the ſaid James Lamb were now dead.

Recital to the following clauſe.

And whereas no proviſion hath heretofore been made to entitle ſuch officers and ſoldiers of the regiment lately commanded by Moſes Hazen, who were inhabitants of this State, to a like allowance of lands, to that which hath been made to other inhabitants of this State ſerving in the army of the United States. And whereas it is equitable that ſuch proviſion ſhould be made: *Therefore,*

Officers and privates of Col Hazen's regiment who were inhabitants of this State to have an allowance of land.

VIII. *Be it further enacted by the authority aforeſaid,* That the officers, non commiſſioned officers and privates of the regiment aforeſaid, who at the time of their entering into ſervice in the ſaid regiment were inhabitants of this State, who continued in ſervice until the termination of the late war with Great Britain and who have not heretofore been provided for by any other law, or their legal repreſentatives, ſhall be entitled to the ſame allowance of land, as other officers, non commiſſioned officers and privates mentioned in the concurrent reſolutions of the Senate and Aſſembly, paſſed the twenty ſeventh day of March, one thouſand ſeven hundred and eighty three, are entitled to, by virtue of the ſaid concurrent reſolutions, and the acts of the Legiſlature purſuant thereto, to be laid out and located for them, in the tract of land ſet apart for that purpoſe, in and by the twenty firſt ſection of the act entitled, "An act for the ſpeedy ſale of the unappropriated lands within this State, and for other purpoſes therein mentioned."

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CHAP. XCIV.

## CHAP. XCIV.

AN ACT *to amend an Act, entitld, "An Act relrtive to Debts due to Perſons within the Enemy's Lines;" and another Act, entitled, "An Act to explain and amend the Act, entitled, "An Act relative to Debts due to Perſons within the Enemy's Lines, paſſed 12th July, 1782."* Paſſed the 20th of April, 1787.

Certain debtors diſcharged from paying intereſt.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That all perſons deſcribed in the fifth ſection of the ſaid firſt mentioned act, and the executors and adminiſtrators of ſuch perſons, indebted by ſimple contract, bill ſingle or penal, or any other obligation, mortgage, ſecurity, or demand whatſoever, to any perſon or perſons deſcribed in the ſaid fifth ſection of the act aforeſaid, or to the executors or adminiſtrators of ſuch perſon or perſons, ſhall be and hereby are diſcharged from any intereſt which may have become due upon any ſuch contract, bill, obligation, mortgage, or ſecurities, ſince the firſt day of January, one thouſand ſeven hundred and ſeventy-ſix, incluſively to the firſt day of May, in the year one thouſand ſeven hundred and eighty-ſix,

Proviſo.

*Provided,* That nothing in this clauſe contained, ſhall be deemed to operate as a diſcharge of any intereſt which may have accrued on any ſuch bill, obligation, mortgage, or other ſecurity executed ſince the firſt day of January, one thouſand ſeven hundred and ſeventy-ſeven.

Certain debtors how to pay their debts.

II. *And be it further enacted by the authority aforeſaid,* That the ſaid perſons, ſo indebted as aforeſaid, their executors or adminiſtrators, ſhall be obliged to pay the debts or ſums by them owing (after ſuch deduction of intereſt as aforeſaid) to the perſon or perſons aforeſaid, their executors or adminiſtrators, in the lawful current money of this State, in three yearly inſtalments, and not otherwiſe; *to wit,* One third part thereof, on or before the firſt day of May, in the year one thouſand ſeven hundred and eighty-eight; another third part thereof on or before the firſt day of May, in the year one thouſand ſeven hundred and eighty-nine; and the other third part thereof on or before the firſt day of May, in the year one thouſand ſeven hundred and ninety; with intereſt upon the amount of ſuch debts or ſums now due (after ſuch deduction as aforeſaid) from the ſaid firſt day of May in the ſaid year one thouſand ſeven hundred and eighty-ſix, any law, contract, or uſage to the contrary thereof in any wiſe notwithſtanding.

Proviſo.

*Provided always,* That in caſe default ſhall be made in the payment of either of the ſaid yearly inſtalments, and not ſooner, it ſhall be lawful for the creditor or creditors of the perſon or perſons making ſuch default, to proſecute for his, her, or their debt or demand, in the ſame manner as if this act, and the acts herein before mentioned, had never been paſſed; but there ſhall not be levied by virtue of any execution upon any judgment, ſentence, or decree thereupon obtained, any other or greater ſum than the amount of the inſtalment or inſtalments, with the intereſt thereon, in reſpect to which default ſhall have been made, and no foreclоſure of any mortgage ſhall operate as a bar to any equity of redemption, till after the ſaid firſt day of May, in the ſaid year one thouſand ſeven hundred and ninety; but it ſhall be lawful in every ſuch caſe for the Chancellor to direct a ſale of ſo much of the ſaid mortgaged premiſes as will be ſufficient to ſatisfy the inſtalment or inſtalments which ſhall have become due, and the intereſt thereon.

Further proviſo.

*Provided alſo,* That the ſaid time given as aforeſaid, for the payment of ſuch debts or demands in caſes where the creditor or creditors has or have no mortgage or other ſecurity upon any lands, tenements, or hereditaments, ſhall be, and the ſame hereby is, upon the expreſs condition that the debtor or debtors, his, her, or their heirs, executors, or adminiſtrators, as the caſe may be, ſhall, within ſix months from the paſſing of this act, either give to the creditor or creditors, good real or perſonal ſecurity for the amount of the debt or demand, to the ſatisfaction of ſuch creditor or creditors, or ſhall depoſit with or tender to ſuch creditor or creditors, if within this State, and to be found, or if not within this State, in the hands of the Treaſurer of this State, for the benefit of ſuch creditor or creditors, by way of collateral ſecurity for his, her, or their debt or demand, the full amount of the principal and intereſt thereof, without ſuch deduction as aforeſaid, in the certificates iſſued or to be iſſued by the Treaſurer of this State; in default

whereof

whereof, it ſhall be lawful for ſuch creditor or creditors to proſecute for his, her, or their debt or demand, in the ſame manner as if this act, or the acts hereby intended to be amended, had never been paſſed.

*Provided further*, That if ſuch creditor or creditors ſhall be willing to accept the payment of the whole of the principal and intereſt of his, her or their debt or demand, without ſuch deduction as aforeſaid, in any of the certificates or ſureties aforeſaid, and ſhall notify the ſame to his, her, or their debtor or debtors; and if ſuch debtor or debtors ſhall not make payment according to ſuch notification, within ſix calendar months thereafter; then, and in every ſuch caſe, it ſhall be lawful for ſuch creditor or creditors to proceed in the ſame manner as if this act, or the acts hereby intended to be amended, had never been paſſed.

Further proviſo, concerning agreement between debtor and creditor.

And provided further, That nothing herein contained ſhall be conſtrued to extend to any perſons, creditors or debtors, not comprehended in the acts aforeſaid, except in caſes of the aſſignment of any bond, bill, obligation, mortgage, ſecurity, or demand whatſoever, made to any perſon or perſons whomſoever, by any perſon who has remained with, gone into, or was ſent within the enemy's lines during the late war.

Further proviſo.

And provided further, That the ſame ſhall be deemed to extend to the executors and adminiſtrators of all ſuch perſons being now deceaſed, to whom the ſame would extend if ſuch perſons were in full life, whether the ſaid perſons died before or ſince the paſſing of the ſaid firſt mentioned act.

Further proviſo.

Provided nevertheleſs, That the ſame ſhall not be deemed to extend to any ſubjects of the King of Britain, comprehended in the treaty of peace between the United States of America, and the ſaid King.

Parts of certain acts repealed.

V. *And be it further enacted by the authority aforeſaid*, That all ſuch parts of the ſaid acts laſt mentioned, as are in any wiſe repugnant to the true intent and meaning of this act be, and the ſame are hereby repealed.

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## CHAP. XCV.

AN ACT *to amend an Act, entitled, "An Act for the better laying out, regulating, and keeping in repair, all common and public Highways and private Roads in the Counties of Ulſter, Orange, Dutcheſs, Waſhington, Weſtcheſter, Albany, and Montgomery."* Paſſed the 20th April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That the Juſtices of the city and county of Albany, and counties of Montgomery and Columbia reſpectively, ſhall, at the next General Seſſions of the Peace in and for the ſaid counties reſpectively, which ſhall be held after the firſt Tueſday of September next, or at any General Seſſions of the Peace within ſix months thereafter, appoint for each town in ſuch counties, inſtead of the Commiſſioners directed to be elected by virtue of the ſaid act hereby intended to be amended, of the freeholders actually reſiding in ſuch towns, not more than five, nor leſs than three Commiſſioners of the highways.

Juſtices of ſeveral counties to appoint Commiſſioners of highways.

II. *And be it further enacted by the authority aforeſaid*, That it ſhall be and it is hereby expreſly made the duty of the Commiſſioners of highways in every town in the ſaid counties, to cauſe all public roads in ſuch reſpective counties to be opened and extended, within ſix months after the paſſing of this act, to the breadth of two rods at the leaſt; and that no compenſation ſhall be made to any proprietor or proprietors of any land which ſuch roads ſhall include, in conſequence of ſuch opening or extenſion.

Their duty.

III. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful to and for the Commiſſioners of the highways to lay out acroſs or through any garden or orchard, any public road or highway, unleſs ſuch orchard ſhall be of the growth of at leaſt four years, or ſuch garden ſhall have been cultivated as ſuch at leaſt four years before ſuch road or highway ſhall be laid out.

Reſpecting gardens, &c.

Width of roads.

IV. *And be it further enacted by the authority aforeſaid*, That all public roads or highways hereafter to be laid out by virtue of the act hereby amended, ſhall be four rods wide, at the leaſt.

Commiſſioners to regulate work on the roads.

V. *And be it further enacted by the authority aforeſaid*, That when ever any road diſtrict in the counties of Albany, Montgomery, and Waſhington, ſhall require a greater number of days work to make or repair any of the roads in any of the ſaid counties, than are or ſhall be rated on the inhabitants of ſuch road diſtrict, by the Commiſſioners, at their annual meeting, agreeable to the directions contained in the fifth ſection of the act hereby amended, that then, and in ſuch caſe, it ſhall and may be lawful for the Overſeers of any ſuch road diſtrict, to cauſe the ſeveral perſons on his liſt named, to work a further number of days, in proportion to the number of days ſuch perſons ſhall have been reſpectively rated as aforeſaid, any thing in any former law to the contrary notwithſtanding.

Recital.

And whereas in and by the act hereby intended to be amended, no proviſion is made in caſes where any diſpute may ariſe about the roads between adjoining counties.

*For remedy whereof*,

Diſputes concerning roads, how to be ſettled.

VI. *Be it enacted by the authority aforeſaid*, That whenever any diſpute ſhall ariſe about any road leading or extending, or intended to extend from one county into another county, it ſhall and may be lawful for the Commiſſioners of the highways in the town aggrieved, to apply to any one Juſtice of the Peace of the county, who is hereby required to iſſue his precept, directed to the Sheriff of ſuch county, requiring and commanding him to ſummon *twelve* freeholders not intereſted in the road ſo in diſpute, to be and appear before him, at a time and place to be mentioned in ſuch precept; and the ſaid Juſtice ſhall give notice in writing under his hand, to ſome one Juſtice of the Peace in the adjoining county, with which the diſpute ſubſiſts, who is alſo hereby required to iſſue his precept to the Sheriff of ſuch county, who ſhall alſo ſummon twelve ſufficient freeholders as aforeſaid; and the ſaid Juſtices ſhall agree on a day certain, not more than *twenty*, nor leſs than *five* days from the date of ſuch precept, when and where they ſhall meet; and the ſaid Juſtices, Freeholders, Commiſſioners, and Sheriff, being ſo met, the ſaid Juſtices ſhall proceed to draw, by ballot, ſix of ſuch freeholders out of each twelve ſo ſummoned from the two counties; and when *ſix* men from each liſt ſhall be ſo drawn, and ſworn by one of the Juſtices, well, truly, and impartially to determine the matter in diſpute reſpecting the moſt convenient place for ſuch road to croſs the line which divides ſuch counties, they ſhall be one Jury, notwithſtanding they are ſummoned from different counties; and ſuch Jury, together with the two Juſtices, the Commiſſioners, and Sheriff, ſhall proceed to view the road ſo in diſpute, and when the ſaid Jury ſhall have carefully viewed the premiſes aforeſaid, and heard the proofs and allegations of the contending parties, they ſhall go together in ſome convenient place, and after any nine or more of them ſhall agree on a verdict, they ſhall deliver the ſame in writing under their reſpective hands and ſeals, to the ſaid Juſtices, who ſhall alſo ſubſcribe the ſame, which verdict ſhall be lodged in the office of the Clerk of ſuch county where the complaint was firſt made, there to be entered of record; and the ſaid Juſtices ſhall make two other copies of the ſaid verdict, and ſhall deliver one of them to the Clerk of the one town, and the other to the Clerk of the other town through which the ſaid road ſhall be ſo eſtabliſhed in the different counties between which ſuch diſpute did ſubſiſt; and the Clerks of ſuch towns ſhall reſpectively enter the ſame in the records of ſuch towns; after which it ſhall be the duty of the Commiſſioners in the reſpective towns to open ſuch road agreeable to the verdict of the Jury aforeſaid, and cauſe the ſame to be repaired, as other public roads in any ſuch county are repaired; provided that this clauſe ſhall only extend to the counties of Albany, Waſhington, and Montgomery.

Penalty on Juſtices, &c. for neglect of duty.

VII. *And be it further enacted by the authority aforeſaid*, That if any Juſtice, Commiſſioner, Sheriff, or other perſon, ſhall neglect or refuſe to do, execute, or perform any of the duties hereby enjoined or him or them by this act, ſuch perſon or perſons ſhall reſpectively forfeit the ſum of two pounds, to be recovered by any Overſeer of the highways in the town where ſuch default ſhall have been, before any Juſtice of the Peace in either of ſaid counties, with coſts; and when recovered, to be applied towards repairing the public roads in the town where ſuch neglect or refuſal ſhall have happened, in the manner directed in and by the act hereby amended.

CHAP.

## CHAP. XCVI.

AN ACT *for partition of the lands therein mentioned among the deviſees of John Bradſtreet and Martha Bradſtreet in the proportions directed by their reſpective wills, and for other purpoſes therein mentioned.* Paſſed the 20th April, 1787.

Preamble, reciting.

Letters patent iſſued to Agatha Evans and others.

WHEREAS two certain letters patent, have lately been iſſued under the great ſeal of this State bearing date the twelfth day of January, one thouſand ſeven hundred and eighty ſix, for granting two certain tracts of land therein deſcribed, to Agatha Evans, the wife of Charles John Evans, Elizabeth Livius wife of Peter Livius, and Samuel Bradſtreet and Martha Bradſtreet, children of Samuel Bradſtreet deceaſed, which tracts of land are alſo deſcribed in an act paſſed the fifth day of May laſt entitled, "An act to enable Charles John Evans and Agatha his wife, to make the conveyance therein mentioned." And whereas in purſuance of the ſaid act, the ſaid Charles John Evans and Agatha his wife, have made ſuch conveyance and grant of ten thouſand acres, parcel of the ſaid two tracts of land, as in and by the ſaid act, they were impowered to make. And whereas the patentees named in the ſaid letters patent, ought to have been intereſted in the lands thereby granted, in like manner, as they would have been by and under the wills of the ſaid John Bradſtreet, and Martha Bradſtreet his daughter, if the ſaid lands had been granted to the ſaid John Bradſtreet in his life time. And whereas it is the intereſt of the State, that its waſte lands ſhould be ſettled and cultivated, as ſoon as poſſible, and it hath been repreſented to the Legiſlature, that it would alſo be for the benefit of all the ſaid parties, that partition ſhould be made of the reſidue of the ſaid lands veſted in them the ſaid Agatha Evans, Elizabeth Livius, Samuel Bradſtreet, and Martha Bradſtreet; but the act for the partition of lands does not afford a mode proper for a caſe where the parties are intereſted in different proportions; and a voluntary partition thereof cannot be effected, as the ſaid Samuel Bradſtreet and Martha Bradſtreet, two of the ſaid patentees are infants. And whereas a ſurvey and map of ſuch parts of the ſaid tracts granted by the ſaid letters patent, as are ſtill veſted in the ſaid patentees, have been made by William Cockburn, and the ſame run out and divided into a number of lots, for the purpoſe of making partition of the ſaid lands into two parts, equal in quantity and quality; which lots were entered in two books, ready to be ballotted for, upon ſuch partition. And whereas there is a certain gore or narrow piece of land adjoining to the ſaid tracts of land, granted by the ſaid letters patent, and bounded as follows, that is to ſay: Beginning upon the weſt branch of Delaware River, where the line of property between this State, and the State of Pennſylvania, touches the ſaid river, and running from thence along the boundary line between this State and Pennſylvania, to the mouth of the Unadilla Branch of the Suſquehannah River, thence up the ſaid Unadilla to the land granted to Alexander Wallace and others; and thence along the Weſt bounds thereof, and of the lands granted to the ſaid Agatha Evans and others, to the place of beginning. And whereas it appears to the Legiſlature that the ſaid gore ought upon the ſame equitable principles on which the letters patent herein before mentioned were founded, to have been granted to the deviſees of the ſaid John Bradſtreet and their repreſentatives, but that by miſtake, it was not included in the letters patent aforeſaid, which miſtake the Legiſlature are diſpoſed to rectify: *Therefore,*

And that in purſuance of a certain act ten thouſand acres of the ſame have been conveyed away.

And that it would be for the intereſt of the parties to have the remainder divided.

A ſurvey by W. Cookburn.

Gore of land adjoning ſaid patents.

And that it appears to the Legiſlature, that the ſaid gore ought alſo to have been granted to the ſaid deviſees of John Bradſtreet.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful for the Governor of this State, for the time being, by letters patent under the great ſeal of this State, to grant the ſaid gore or narrow piece of land, to the ſaid Agatha Evans, Elizabeth Livius, Samuel Bradſtreet and Martha Bradſtreet in fee, in the uſual manner, upon payment of the ſum of one ſhilling for each acre thereof in any public ſecurities receivable upon the ſale of confiſcated property.

Letters patent to iſſue to ſaid deviſees for the ſaid gore.

II. *And*

Certain perſons appointed commiſſioners.

II. *And be it further enacted by the authority aforeſaid,* That William Maxwell, Daniel M'Cormick and Richard Harriſon, all of the city of New-York, ſhall be, and they are hereby nominated and appointed Commiſſioners for dividing all and ſingular the ſaid two tracts of land mentioned in the ſaid letters patent (except ſuch part thereof as has already been conveyed to William Walton and Gerard Walton) and alſo for dividing the ſaid gore, between the ſaid Agatha Evans, Elizabeth Livius, Samuel Bradſtreet and Martha Bradſtreet, in a fair and equitable manner, according to their reſpective intereſts in the ſame, under the wills of the ſaid John Bradſtreet and his daughter Martha Bradſtreet, deceaſed. And that the ſaid Commiſſioners ſhall and may in dividing the ſaid tract already granted, make uſe of the ſaid ſurvey and books heretofore made and performed by William Cockburn, for the uſe of the ſaid parties; a true copy of which ſurvey and books ſhall be filed as well in the office of the Secretary of this State, as in the office of the Clerk of Montgomery county, previous to the ſaid diviſion. And that the ſame diviſion may be duly performed, the ſaid Commiſſioners, or any two of them, ſhall in the firſt place, make a diviſion of the ſaid tracts into two parts, by balloting for the lots as they are contained in the ſaid books, in the preſence of one or more of the Judges of the Supreme Court of this State; and upon ſuch balloting, the ſaid Agatha Evans, ſhall be and become ſeized in fee, in ſeveralty, of all and ſingular the lots of land, deſcribed in the book drawn for her, in like manner as if they had been granted to her alone, by the ſaid two letters patent; and the lots of land deſcribed in the other book, ſhall be and become the property of the ſaid Agatha Evans, Elizabeth Livius, Samuel Bradſtreet and Martha Bradſtreet, in like manner as if they had been granted in fee to the aforeſaid Martha Bradſtreet, deceaſed, in her life time, according to their ſeveral rights under the ſaid wills.

Maps, &c. to be filed in the Secretary's office &c.

Lands to be divided, &c.

Commiſſioners within ſix months after the ſaid firſt diviſion, to ſubdivide the moiety belonging to all the deviſees and how.

III. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioners or any two of them, ſhall and may at any time or times within the ſpace of ſix months, from and after the ſaid firſt diviſion ſo to be made as aforeſaid, ſubdivide that moiety of the ſaid tracts of land, which ſhall ſo as aforeſaid fall to the ſhare of the ſaid Agatha Evans, Elizabeth Livius, Samuel Bradſtreet and Martha Bradſtreet, into three parts, by ſetting down upon three ſeparate tickets, the numbers of ſuch lots compoſing the ſaid moiety, in ſuch a manner as to make the ſaid three parts as nearly equal as poſſible in quantity and quality; which tickets ſhall be put into a box, and three other tickets ſhall be put into another box, one of them marked with the name of the ſaid Agatha Evans, another of them marked with the name of the ſaid Elizabeth Livius, and the third marked with the names of the ſaid Samuel Bradſtreet and Martha Bradſtreet, and the ſaid tickets ſhall thereupon be drawn out of the ſaid boxes alternately, firſt a ticket with the numbers of lots, and then the ticket of names, by an indifferent perſon to be appointed by the ſaid Commiſſioners, or any two of them, in the preſence of one or more of the Judges of the ſaid Supreme Court; and the ſeveral lots mentioned in the ticket drawn immediately before the ticket, bearing the name of the ſaid Agatha Evans, ſhall upon ſuch balloting, veſt in the ſaid Agatha Evans, in like manner, for the ſame eſtate, and ſubject to ſuch limitations, and contingencies, to the ſaid Elizabeth Livius, as in and by the laſt will and teſtament of the ſaid Martha Bradſtreet, are expreſſed, as to the one third part of her eſtate, ſo as aforeſaid deviſed, to the ſaid Agatha Evans. And in like manner, the lots mentioned in the ticket, drawn immediately before the ticket bearing the name of the ſaid Elizabeth Livius, ſhall be veſted upon ſuch balloting, in the ſaid Elizabeth Livius, in like manner, as ſhe would be entitled, to the one third part of the real eſtate of the ſaid Martha Bradſtreet deceaſed, by virtue of her laſt will and teſtament aforeſaid, ſubject to the contingent right of the ſaid Agatha Evans, in the ſame. And the ſeveral lots mentioned in the ticket drawn immediately before the ticket bearing the name of the ſaid Samuel Bradſtreet and Martha Bradſtreet, ſhall be veſted in them upon ſuch balloting, in like manner, and ſubject to the ſame limitations, in favour of the ſaid Agatha Evans and Elizabeth Livius, as the one third part of the real eſtate of the ſaid Martha Bradſtreet is, in and by her will, deviſed to them.

II. *And*

IV. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioners, or any two of them, ſhall cauſe the ſaid gore, when granted as aforeſaid, to be ſurveyed and divided by a Surveyor to be by them nominated and appointed, into ſix lots, as nearly equal in quantity and quality as poſſible; a copy of which ſurvey, ſubſcribed by the ſaid Commiſſioners, or any two of them, ſhall be filed in the ſaid Secretary's office, and another copy in the office of the Clerk of Montgomery county aforeſaid; and the ſaid Commiſſioners, or any two of them, after ſuch ſurvey made and filed as aforeſaid, ſhall, in the preſence of one or more of the Judges of the Supreme Court, as aforeſaid, proceed to divide the ſaid lots by ballot, as nearly as poſſible, in the manner herein before preſcribed; and upon ſuch ballotting ſhall cauſe three of the ſaid lots to be firſt drawn for the ſaid Agatha Evans, who ſhall thereupon be ſolely ſeized thereof in fee; and the other three lots ſhall be drawn againſt the names of the ſaid Agatha Evans, Elizabeth Livius, and Samuel Bradſtreet, and Martha Bradſtreet, who ſhall reſpectively, upon ſuch ballotting, have ſuch eſtates in the ſaid three lots, as they reſpectively are by virtue of this act to have in their ſeveral proportions, of the moiety of the lands already granted, which is ſo as aforeſaid to be divided between them.

Commiſſioners to cauſe ſaid gore when granted, to be ſurveyed and divided, &c.

V. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioners, or any two of them, ſhall make and ſet down in writing, all their proceedings reſpecting the ſaid ballotting and partition, one copy whereof, certified under the hands of the ſaid Commiſſioners, or any two of them, and under the hands of the Judge preſent at ſuch diviſion, ſhall be filed in the ſaid Secretary's office, and another copy thereof, certified in like manner, ſhall be filed in the office of the Clerk of Montgomery county, either of which ſame certified proceedings, or an atteſted office copy thereof, ſhall forever thereafter be good evidence of ſuch partitions.

Commiſſioners to note all their proceedings reſpecting the balloting, &c.

VI. *And be it further enacted by the authority aforeſaid,* That the expences of the ſaid diviſions ſhall be borne and paid by the ſeveral perſons intereſted in the ſaid tracts of land, in the following proportions, that is to ſay, ſeven twelfth parts thereof by the ſaid Agatha Evans, three twelfth parts thereof by the ſaid Elizabeth Livius, and two twelfth parts thereof by the ſaid Samuel Bradſtreet and Martha Bradſtreet, equally.

Expences of the diviſion, how to be borne and paid.

## CHAP. XCVII.

AN ACT *to regulate the Circulation of Copper Coin.* Paſſed the 20th of April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That from and after the firſt day of Auguſt next, no coppers ſhall paſs current in this State, except ſuch as are of the ſtandard and weight of one third part of an ounce averdupois, of pure copper, which coppers ſhall paſs current at the rate of twenty to a ſhilling, of the lawful current money of this State, and not otherwiſe.

No coppers to paſs after a certain day, but ſuch as are herein mentioned, and thoſe at the rate of 20 to a ſhilling.

II. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, ſhall after the ſaid firſt day of Auguſt next, offer in payment any copper coin, other than of the ſtandard and weight aforeſaid, ſuch copper coin ſhall be liable to be ſeized, and ſhall be forfeited to the uſe of the perſon or perſons who ſhall ſeize the ſame. And it ſhall be lawful for any perſon or perſons, to whom ſuch offer of payment ſhall be, to ſeize and take ſuch copper coin, and the perſon or perſons making ſuch ſeizure, ſhall forwith give information thereof, and ſhall deliver the coppers ſo ſeized, to ſome Juſtice of the Peace of the city or county in which ſuch ſeizure ſhall have been made, and the ſaid coppers ſhall remain in the cuſtody of ſuch Juſtice of the Peace, for the ſpace of ten days; and if not claimed within that time, ſhall be adjudged to be forfeited, and ſhall be returned to the perſon or perſons who delivered the ſame to ſuch Juſtice of the Peace. And the perſon or perſons ſeizing ſuch coppers, ſhall on the requeſt of the perſon or perſons offering the ſame in payment, give information of the name of the Juſtice, to whom they

If any others ar tendered in payment the ſame to be forfeited, and how.

they ſhall have been delivered. And in caſe the ſaid coppers ſhould be claimed, and the legality of the ſeizure controverted, it ſhall be lawful for ſuch Juſtice, to hear and determine the ſame, in a ſummary manner; provided the ſum for which ſuch coppers ſhall have been offered in payment, do not exceed the ſum of forty ſhillings; but if the ſame ſhall exceed the ſum of forty ſhillings, then the ſaid Juſtice of the Peace, if either of the parties require it, ſhall take to his aſſiſtance, two able and ſufficient freeholders, who under oath ſhall with ſaid Juſtice, ſummarily hear and determine the ſaid claim and controverſy, and their judgment in the caſe ſhall be final between the parties. And the ſaid Juſtice ſhall after ſuch determination, deliver the coppers depoſited with him, to ſuch of the ſaid parties, as ſhall be adjudged to be intitled to the ſame, according to the true intent and meaning of this act.

Proviſo.

*Provided*, That nothing in this act contained, ſhall be conſtrued to extend to any copper coin, to be ſtruck by the United States of America in Congreſs aſſembled.

Penalty for paſſing bad coppers, &c.

III. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons, ſhall paſs or offer to paſs in payment, any coppers of baſe metal or of a ſtandard or weight, different from that which is hereby permitted to paſs, knowing the ſame to be of ſuch baſe metal, or of ſuch different ſtandard or weight, ſuch perſon or perſons ſhall forfeit five times the value of the ſum, for which ſuch coppers ſhall be ſo offered or paſſed in payment, to be recovered with coſts of ſuit, before any Juſtice of the Peace, by any perſon that will ſue for the ſame; which Juſtice is hereby fully impowered and required ſummarily to hear and determine the ſame, and to award execution thereupon, if the ſaid forfeiture ſhall not amount to more than ſix pounds current money of this State; but if ſuch forfeiture ſhall amount to more than that ſum, then to be recovered with coſts of ſuit in any court of record within this State, by action of debt, bill or information; in either caſe to the uſe of the perſon or perſons who will ſue for the ſame.

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## CHAP. XCVIII.

AN ACT *for the relief of inſolvent debtors, with reſpect to the impriſonment of their perſons.* Paſſed the 20th of April, 1787.

Perſons confined in Goal for debt leſs than fifteen pounds to be diſcharged from their impriſonment.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That all and every perſon and perſons, now confined in any goal within this State, upon execution or upon any other writ or proceſs, or by virtue of any judgment or order of any court of record, or warrant from any Juſtice of the Peace, for any debt or debts, or ſum or ſums of money, or fine or fines, or forfeiture or forfeitures, not exceeding in the whole the ſum of fifteen pounds excluſive of coſts, ſhall be diſcharged from ſuch impriſonment; and the Sheriff, Goaler or keeper of the goal in which any ſuch perſon is confined as aforeſaid, ſhall upon notice of this act, diſcharge ſuch perſon out of cuſtody, if detained for ſuch debt, ſum of money, fine or forfeiture, and for no other cauſe. And no ſuch Goaler ſhall be liable to any action of eſcape, or other ſuit or information upon account thereof. And if any action, ſuit or information ſhall be brought or exhibited againſt any ſuch Sheriff or Goaler, for or on account of ſuch diſcharge, ſuch Sheriff or Goaler may plead the general iſſue, and give this act in evidence, and if the plaintiff ſhall be nonſuited, or diſcontinue his or her action, or judgment ſhall be given againſt him or her, upon a verdict or demurrer, the defendant ſhall have treble coſts.

Sheriffs on notice of this act to diſcharge ſuch perſons.

And no perſon ſo diſcharged to be impriſoned again for the ſame cauſe.

II. *And be it further enacted by the authority aforeſaid*, That no perſon diſcharged from impriſonment by virtue of this act, ſhall at any time thereafter be impriſoned for the ſame cauſe; and if any ſuch perſon ſo diſcharged, ſhall be arreſted for the ſame cauſe, it ſhall be lawful for any Judge of the court out of which the proceſs ſhall have iſſued, to diſcharge ſuch perſon out of cuſtody, ſo as ſuch perſon do give a warrant

to

to ſome Attorney of the ſame court to appear and plead to ſuch action. *Provided always*,

III. *And be it further enacted by the authority aforeſaid*, That notwithſtanding ſuch diſcharge, all and every debt and demand againſt ſuch perſon ſo diſcharged, and all and every judgment and decree had or obtained, or to be had or obtained againſt him or her, ſhall ſtand and be good and effectual in law, to all intents and purpoſes, againſt the lands, tenements, hereditaments, goods, and chattels, of ſuch perſon ſo diſcharged, which he or ſhe, or any perſon or perſons for him or her hath at the time of ſuch diſcharge, or at any time thereafter may have, or be in any wiſe ſeized or poſſeſſed of, or entitled to, either in law or equity, except the arms and accoutrements of ſuch perſon, and the neceſſary wearing apparel and bedding of himſelf and of his wife and children. And it ſhall and may be lawful for any creditor of ſuch perſon ſo diſcharged, and at whoſe ſuit ſuch perſon is now confined, and for the executors or adminiſtrators of ſuch creditor, to take out a new execution againſt the lands, tenements, hereditaments, goods, and chattels, of ſuch perſon ſo diſcharged, except as before excepted, for the ſatisfaction of his or her debt, in ſuch ſort, manner and form, as he or ſhe might have done, if ſuch perſon had never been taken in execution. And in caſe no judgment is obtained by ſuch creditor, againſt ſuch perſon ſo diſcharged, then it ſhall be lawful for ſuch creditor to continue or proſecute his or her action to judgment, and to take out execution as aforeſaid, againſt thelands, tenements, hereditaments, goods and chattels, of ſuch perſon or perſons ſo diſcharged, except as before excepted, for the ſatisfaction of his or her debt or damages, and coſts of ſuit; but the perſon of ſuch debtor ſo diſcharged, ſhall not be impriſoned for the ſame debt or debts, ſum or ſums of money, fine or fines, forfeiture or forfeitures, for which he or ſhe, is now confined, or for any or either of them.

Such diſcharge from priſon not to operate as a diſcharge of the debt but the goods and chattles,&c. ſubject to the payment thereof.

Creditors of perſons ſo diſcharged may take out a new execution againſt their property.

And where no judgment has been obtained, may proſecute to judgment and ſuch execution.

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## CHAP. XCIX.

AN ACT *for the payment of the ſalaries of the officers of Government and other contingent charges.* Paſſed the 21ſt of April, 1787.

BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That the Treaſurer of this State ſhall pay out of any unappropriated monies in the Treaſury, the ſums of money herein after directed, *viz.*

Treaſurer to pay monies out of the treaſury as follows.

To his Excellency the Governor for adminſtering the government of this State, from the firſt day of July laſt to the firſt day of July next, at and after the rate of one thouſand five hundred pounds per annum.

To his Excellency the Governor, 1500l.

To the perſon adminiſtering the government of this State for the time being, to defray the incidental charges which may ariſe in and about the adminiſtering the government of this State, ſuch ſum or ſums of money as he ſhall from time to time, by warrant under his hand, and the privy ſeal of the State, draw from the Treaſury for the purpoſe, not exceeding in the whole the ſum of one hundred and fifty pounds.

To the Governor for incidental expences of government, 150l.

To his Excellency the Governor, for diſburſements on his late journey to the county of Columbia, at the requeſt of the Legiſlature, the ſum of ninety three pounds eighteen ſhillings and five pence.

To the Governor for diſburſements, 93l. 18: 5.

To the Honorable Robert R. Livingſton, Eſquire, Chancellor of this State, for his ſervices in that ſtation, from tha firſt day of July laſt to the firſt day of July next, at and after the rate of five hundred pounds per annum.

To the Chancellor, 500l.

To the honorable Richard Morris, Eſquire, Chief Juſtice of this State, for his ſervices in that ſtation, from and to the reſpective times aforeſaid, at and after the rate of five hundred pounds per annum.

To the Chief Juſtice 500l.

To the Honorable Robert Yates and John Sloſs Hobart, Eſquire, puione Juſtices of the Supreme Court of this State, reſpectively for their ſervices in that ſtation, from and to the reſpective times aforeſaid, at and after the rate of five hundred pounds per annum.

To the Judges of the Supreme Court, 500l. each.

To

To the delegates in Congreſs, 24s. per day.

To each of the Delegates of this State, in the Congreſs of the United States, at and after the rate of twenty four ſhillings per day, for ſuch time as they ſhall have attended or were going to, or returning from Congreſs, to the reſpective places of their abode, according to ſuch accounts as they ſhall reſpectively produce, audited by the Auditor of this State.

To the members of the Council of Appointment, 16s. per day.

To the Members of the Council of Appointment at and after the rate of ſixteen ſhillings per day, for their attendance on the Council in the receſs of the Legiſlature, and for the time of their travelling from and to their reſpective places of abode, according to ſuch accounts as they ſhall produce, certified by the Clerk of the ſaid Council.

To the members of the Senate and Aſſembly, 14s. per day.

To the Members of the Senate and Aſſembly for each and every day they ſhall have attended in Senate or Aſſembly, during the preſent meeting of the Legiſlature, and for each and every day they ſhall have been or may be travelling to and from their reſpective places of abode, to the place of the meeting of the Legiſlature, the ſum of fourteen ſhillings per day each; ſuch travelling charges to be computed at and after the rate of thirty miles per day, agreeable to ſuch accounts thereof, as they ſhall reſpectively produce, certified by the Preſident of the Senate, or Speaker of the Aſſembly (as the caſe may be) and the account of the Preſident of the Senate, to be certified by the Clerk of the Senate, and the account of the Speaker of the Aſſembly, to be certified by the Clerk of the Aſſembly.

To the Secretary of State, 30l. for attending the Legiſlature and council of appointment.

To the Secretary of the State, for attending the Legiſlature during the preſent ſeſſion, for the purpoſe of receiving the laws, and attending the Council of Appointment from the firſt day of July laſt, to the firſt day of July next, at and after the rate of thirty pounds per annum.

To the Secretary for recording the laws &c. the amount of his account to be audited.

To the ſaid Secretary for his ſervices in recording the laws, making copies thereof with marginal notes for the preſs, and making copies by direction of the Governor or of the Senate and Aſſembly, and for engroſſing the minutes of the Council of Appointment, from time to time, after the rate of one ſhilling and ſix pence per ſheet, each ſheet to conſiſt of one hundred and twenty eight words, agreeable to ſuch account thereof as he ſhall produce, Audited by the Auditor of the State.

To the Secretary of the Land-Office. 40l.

To the ſaid Secretary for his extra ſervices, as Secretary to the Commiſſioners of the Land Office, to the time of paſſing this act, the ſum of forty pounds.

To the Governor's Secretary, 150l.

To the Secretary to his Excellency the Governor, at and after the rate of one hundred and fifty pounds per annum.

Treaſurer to retain in his own hands, 1273l. 18. 9.

II. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for Gerard Bancker, Eſquire, Treaſurer of this State, to retain in his own hands, the ſum of five hundred pounds for his ſervices as Treaſurer, from the firſt day of July laſt, to the firſt day of July next, and the further ſum of ſeven hundred and ſeventy three pounds, eighteen ſhillings and nine pence for the incidental charges of his office, from and to the reſpective times laſt aforeſaid.

III. *And be it further enacted by the authority aforeſaid*, That the ſaid Treaſurer ſhall pay to the following perſons the ſums herein after mentioned, *viz.*

To the Attorney General, 600l.

To Egbert Benſon, Eſquire, Attorney General of this State, for his ſervices in that ſtation from the firſt day of July laſt, to the firſt day of July next, at and after the rate of ſix hundred pounds per annum.

To the Auditor 350l.

To the Auditor of this State, the ſum of three hundred and fifty pounds, for his ſervices as Auditor for one year, ending the twenty third day of March laſt.

To the Surveyor General, the amount of his ſalary.

To Simion De Witt, Surveyor General of this State, ſuch ſums as ſhall be certified by the Auditor of this State, to be due to him for his ſalary, and the expences of his office, to the firſt of May next.

To the Adjutant General of Militia 250l.

To Nicholas Fiſh, Adjutant General of the militia of this State, the ſum of two hundred and fifty pounds in full, for his ſalary from the thirteenth day of April, one thouſand ſeven hundred and eighty ſix, to the thirteenth day of April inſtant.

To the Collector of the port of New-York, 1500l.

To the Collector of the cuſtoms for the port of New-York, in quarterly payments at and after the rate of fifteen hundred pounds per annum.

To the Collector of the port of Sagg Harbour, 50l.

To the Collector of the cuſtoms for the port of Sagg Harbour, at and after the rate of fifty pounds per annum.

To

To the Surveyor and Searcher, at and after the rate of two hundred and fifty pounds per annum.

To the Survey r and Searcher, 250l.

To each of the Land and Tide Waiters, the ſum of ten ſhillings, per day.

To the Land and Tide Waiters 10s. per day.

To John M'Keſſon and Abraham B. Bancker, Eſquires, Clerks of the Aſſembly and Senate, each the ſum of thirty ſhillings per day, for their reſpective ſervices during the preſent ſeſſion; and alſo the amount of ſuch accounts for monies by them reſpectively advanced for the uſe of the Aſſembly and Senate, as they ſhall reſpectively produce, certified by the Preſident of the Senate, or Speaker of the Aſſembly, as the caſe may require.

To the clerks of Senate and Aſſembly, 30s. per day.

To the Doorkeepers of the Senate and Aſſembly, at and after the rate of ſixteen ſhillings per day, agreeable to ſuch certificates thereof, as they ſhall reſpectively produce, certified by the Preſident of the Senate or Speaker of the Aſſembly, as the caſe may be.

To the Doorkeepers, 16s. per day.

To the Serjeant at Arms, at and after the rate of twelve ſhillings per day, agreeable to ſuch certificate thereof as he ſhall produce, certified by the Speaker of the Aſſembly.

To the Serjeant at Arms, 12s. per day

To Samuel Loudon, Printer to this State, the ſum of five hundred and thirty pounds in full for his ſervices in that ſtation, including the preſent year.

To the State Printer, 530l.

To Andrew Moody, Commiſſary of Military Stores, the ſum of forty pounds, in full for his ſalary from the thirteenth day of April, one thouſand ſeven hundred and eighty ſix, to the thirteenth day of April inſtant.

To the commiſſary of military ſtores 40l. as a ſalary.

To the ſaid Andrew Moody, for the purpoſe of enabling him to collect and ſecure the cannon, and other public ſtores, according to ſuch directions as he ſhall receive from his Excellency the Governor or perſon adminiſtering the government of this State, for the time being, the ſum of one hundred and fifty pounds, for which ſum he ſhall be accountable.

To the ſaid commiſſary for collecting military ſtores 150l.

To the ſaid Andrew Moody, ſuch ſum as the Auditor of this State ſhall certify to be due to him, for the expences of repairing the carriages and harneſs, of four of the field pieces of this State, in purſuance of concurrent reſolutions of the Senate and Aſſembly, of the fifth day of March laſt.

To ſaid commiſſary for repairing field pieces the amount of his accounts.

To Samuel Jones and Richard Varick, Eſquires, for reviſing and digeſting the laws of this State, ſuch ſums as ſhall be certified by the Auditor of this State to be due to them reſpectively, for their ſervices in that ſtation.

To S. Jones and R. Varick for reviſing Laws ſuch ſums as ſhall be due to them.

To Abraham Cuyler, Henry Glen, and Peter Schuyler, Eſquires, Commiſſioners of Indian affairs for this State, the ſum of twenty four pounds ſeven ſhillings and eight pence, for that ſum due to them on their account for extra expenditures in the ſaid department, as audited by the Auditor of this State; and the ſum of forty pounds to each of them for their ſervices, in the execution of their reſpective offices aforeſaid, to the firſt day of May next.

The commiſſary of Indian affairs 24l. 7s. 8d. for expenditures, and 40l. each for their ſervices.

To Simeon De Witt and James Clinton, Eſquires, ſuch ſums as ſhall be certified by the Auditor of this State to be due to them for their ſervices and diſburſements, in running the line between this State and the Commonwealth of Pennſylvania, allowing to the ſaid James Clinton, Eſquire, one pound twelve ſhillings for every day he has been upon the ſaid ſervice; and to the ſaid Simeon De Witt, for his extraordinary ſervices, as Commiſſioner in running the line aforeſaid, the ſum of forty pounds.

To Simeon De Witt and James Clinton for running a line between this State and Pennſylvania, &c.

To the Commiſſioners appointed, or to be appointed on the part of this State, to continue the running out, making and aſcertaining the juriſdiction line between this State and the Commonwealth of Pennſylvania, a ſum or ſums not exceeding in the whole, the ſum of ſix hundred pounds, for which they are to be accountable.

To the perſons who are to continue the running ſaid line, 600l. on account.

To the Commiſſioners of the Weſtern Diſtrict, the ſum of two hundred pounds on account.

To commiſſioners of forfeitures of the weſtern diſtrict, 200l. on account.

To the Commiſſioners appointed by this State, to attend at the convention held at Annapolis in Maryland, in the month of September laſt, for their expences upon that occaſion, ſuch ſum as the Auditor of the State to be due to them reſpectively.

To the commiſſioners who attended at Annapolis, ſuch ſums as are due to them.

To Richard Varick, Richard Platt, Abraham Ten Brook, Peter Ganſevoort, junior, and Philip Schuyler, Eſquires, appointed Commiſſioners by the act, entitled, "An act making proviſion for officers, ſoldiers, and ſeamen who have been diſabled in the

To the Commiſſioners for examining invalids, the amount of their accounts to be audited.

ſervice of the United States;" for examining invalids, in purſuance of the ſaid act, between the firſt day of May laſt, and the firſt day of June next, according to ſuch accounts thereof as they ſhall produce, audited by the Auditor of this State; and in ſettling of which accounts the Auditor ſhall audit the accounts of the ſaid Commiſſioners in New-York, ſeparately from thoſe in the city of Albany, and ſhall allow the ſum of one ſhilling per ſheet, each ſheet to contain ſeventy two words, for the drafts, and nine pence per ſheet for the copies of all depoſitions and certificates, to be divided among the ſaid Commiſſioners in New-York and Albany reſpectively, as they ſhall agree on.

To the Chamberlain of New-York, 50l. for erecting a certain monument.

To the Chamberlain or Treaſurer of the Corporation of the city of New-York, the ſum of fifty pounds, to be applied by the Common Council of the ſaid city to defray the expence of erecting the Monument in memory of the late General Montgomery.

To Henry Broadwell, 30.

To Henry Broadwell, the ſum of thirty pounds, for a building by him erected on a lot of ground forfeited to the People of this State by the attainder of James De Lancey, Eſquire, and which was with the ſaid lot, ſold by the Commiſſioners of forfeitures for the Southern Diſtrict.

To Anthony Poſt the amount of coſts in a certain ſuit brought againſt him.

To Anthony Poſt, the amount of the coſts which ſhall have been adjudged to be paid by him in an action brought againſt him by James Leonard, for the meſne profits of a houſe and lot, located by the ſaid Anthony Poſt.

Treaſurer to deliver money and plate to Peter Stuyveſant.

IV. *And be it further enacted by the authority aforeſaid,* That the Treaſurer of this State ſhall deliver to Peter Stuyveſant, the money and plate belonging to him, depoſited in the Treaſury during the late war by the Commiſſioners of Sequeſtration for the county of Dutcheſs.

Accounts of Clerk of the Supreme Court to be liquidated and ſettled, and the Treaſurer to pay the ſame.

V. *And be it further enacted by the authority aforeſaid,* That Peter T. Curtenius, Auditor of this State, Richard Varick, and Samuel Jones, Eſquires, ſhall be and hereby are authorized and required to liquidate and ſettle the accounts of the Clerk of the Supreme Court, for his ſervices both as Clerk of the Supreme Court, and as Clerk of the courts of Oyer and Terminer and Goal Delivery, in proſecutions on behalf of the People of the State of New-York, againſt perſons for having adhered to the enemies of this State, and in other proſecutions on behalf of the People of the State of New-York; and the Treaſurer is hereby authorized and directed to pay the amount of ſuch balance as may be certified by the ſaid Peter T. Curtenius, Richard Varick, and Samuel Jones, or any two of them, to be due to the ſaid Clerk for his ſervices as aforeſaid.

Auditor to collect and lay before the Legiſlature the accounts of the Agents of this State, againſt the claims of Maſſachuſetts.

VI. *And be it further enacted by the authority aforeſaid,* That Peter T. Curtenius, Auditor of this State, do collect and lay before the Legiſlature at their next meeting, the accounts of the ſeveral perſons who were employed as agents or Commiſſioners to collect and procure evidence, vouchers, and materials for manifeſting and maintaining the boundaries and juriſdiction of this State, and the accounts of the perſons employed by the ſaid Commiſſioners, and the accounts of the ſeveral perſons who have been employed as Commiſſioners for vindicating the right of juriſdiction of this State, againſt the claims of the Commonwealth of Maſſachuſetts, purſuant to the articles of confederation and perpetual union of the United States, and of the ſeveral perſons who have been employed in making preparations for defending the rights of this State, againſt the ſaid claim.

Reciting, 'caſe of John Kane, &c.

And whereas the real eſtate late of John Kane, forfeited to the People of this State, by the attainder of the ſaid John Kane, hath been ſold, and it now appears, that the ſame eſtate, long before the forfeiture thereof, was mortgaged to John Montreſor, for ſecuring the payment of the ſum of one thouſand three hundred pounds, who hath cauſed ſuits to be brought againſt the purchaſer of the ſaid lands:

*Therefore,*

Treaſurer to pay the amount of a mortgage to John Montreſor.

VII. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer of this State, and he is hereby required, out of any money in the Treaſury, not otherwiſe appropriated, to pay to the ſaid John Montreſor, or his Attorney, the ſaid ſum of one thouſand three hundred pounds, with the intereſt thereof, ſince the firſt day of January, in the year of our Lord, one thouſand ſeven

ſeven hundred and eighty three, and the coſts of the ſaid ſuits, and that the ſaid Treaſurer, upon payment thereof, procure an aſſignment of the ſaid mortgage to the People of the State of New-York.

Reciting, that Angus M'Lean has been diſpoſſeſſed of a forfeited farm which he located.

And whereas Angus M'Lean, of the county of Ulſter, now deceaſed, on the twenty third day of March, in the year of our Lord, one thouſand ſeven hundred and eighty four, located and purchaſed of the Commiſſioners of forfeitures for the Middle Diſtrict, for the conſideration of two hundred and forty eight pounds ten ſhillings, in depreciation certificates, two hundred and forty eight acres and an half of land, in the county of Ulſter, which was then deemed to be forfeited to the People of this State, by the attainder of David Colden. And whereas it is repreſented to the Legiſlature, that the repreſentatives of the ſaid Angus M'Lean, deceaſed, have been diſpoſſeſſed of the ſaid premiſes by Cadwallader Colden, in whom the ſaid lands are ſaid to be legally veſted.

And whereas it is reaſonable that the repreſentatives of the ſaid Angus M'Lean, be compenſated for the coſts and expences they have been put to in the proſecution of their claim, under the conveyance aforeſaid: *Therefore,*

Treaſurer to pay the repreſentatives of ſaid M'Lean the coſts which accrued in defending the ſame, &c.

VIII. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer of this State, out of any monies remaining in his hands unappropriated, to pay to the repreſentatives of the ſaid Angus M'Lean, all coſts which may have accrued, in defending any ſuit or ſuits, for the ſaid land, ſo located, to be taxed by the proper officer of the court in which ſuch ſuit or ſuits ſhall have been brought, and ſuch reaſonable ſums as ſhall appear to have been expended in the ſurveying and appraiſing the lands aforeſaid, to be certified by any two of the late Commiſſioners of forfeitures for the Middle Diſtrict, and audited by the Auditor of this State; and that the repreſentatives of the ſaid Angus M'Lean, have the privilege of locating other lands as is directed in and by the fourteenth ſection of the act, entitled "An act further to amend an act for the ſpeedy ſale of the confiſcated and forfeited eſtates, within this State, and for other purpoſes therein mentioned," paſſed the firſt of May, one thouſand ſeven hundred and eighty ſix.

Reciting that a certain lot was conveyed to Garret S. Veeder by the Commiſſioners for procuring a ſum in ſpecie.

And whereas Chriſtopher Yates and John Lanſing, junior, Commiſſioners for procuring a ſum in ſpecie in the eaſtern and weſtern diſtricts of this State, in the year one thouſand ſeven hundred and eighty, for the conſideration of one hundred and ſeven pounds nineteen ſhillings, in bills emitted on the credit of this State, commonly called bills of the new-emiſſion, conveyed to Garret S. Veeder, junior, and his heirs, a certain lot of land ſituate in the patent of Cliſton Park, in the county of Albany, called lot number thirty one, in the third allotment in the diviſion of the ſaid patent.

And that the ſame had been previouſly ſold by Commiſſioners of forfeitures to Iſaac Truax.

And whereas, previous to the ſale by the above mentioned Commiſſioners to the ſaid Garret S. Veeder, junior, the ſame one hundred and twenty ſeven acres of land, had been already ſold and conveyed by the Commiſſioners of forfeitures to one Iſaac Truax: *Therefore,*

Treaſurer to pay to ſaid Veeder the amount of the purchaſe money which he has paid for ſaid lot.

IX. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer of this State, and he is hereby required, out of any monies in the Treaſury not otherwiſe appropriated, to pay to the ſaid Garret S. Veeder, junior, the ſaid ſum of one hundred and ſeven pounds nineteen ſhillings, being the conſideration money by him paid for the ſaid lot, upon his depoſiting the conveyance made to him of the ſaid lot by the ſaid Commiſſioners with the Treaſurer of this State, and his reconveying all his right and title in the ſame lot under the conveyance aforeſaid, to the People of this State, with a covenant againſt all his acts and deeds reſpecting the ſame.

Reciting the caſe of Samuel Stringer.

And whereas the ſaid Chriſtopher Yates and John Lanſing, junior, Commiſſioners as aforeſaid, by their deed bearing date the third day of April, in the year of our Lord, one ~~thouſand ſeven hundred and eighty~~ two, ~~for the conſideration of one hundred and~~ ſeventy-two pounds and eleven ſhillings, in bills emitted on the credit of this State, commonly called bills of the new emiſſion, conveyed to Samuel Stringer and his heirs, a certain lot of land in the county of Albany, called lot number nine, in the firſt allotment of the patent of Clifton-Park, then deemed to be forfeited to the People of this

State

State, by the attainder of Oliver Delancey, Eſquire; but it hath ſince been diſcovered, that the ſaid lot of land did not belong to the ſaid Oliver Delancey, at the time of his attainder. *Therefore,*

Treaſurer to pay to Samuel Stringer, 172l. 11s.

X. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer of this State, and he is hereby required, out of any money in the treaſury, not otherwiſe appropriated, to pay the ſaid Samuel Stringer, the ſaid ſum of one hundred and ſeventy-two pounds and eleven ſhillings, being the conſideration money by him paid for the ſaid lot, upon his depoſiting the conveyance made to him of the ſaid lot, by the ſaid Commiſſioners, with the Treaſurer of this State, and conveying his right in virtue of the ſaid conveyance, to the People of the State of New-York.

Auditor's duty, relative to quit rents

XI. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Auditor of this State, and he is hereby required to do and perform every act, matter, and thing which the Treaſurer is directed to do and perform, in and by the act, entitled, "An act for the collection and commutation of quit rents," paſſed the firſt day of April, one thouſand ſeven hundred and eighty-ſix; and in and by the act, entitled, "An act to amend an act, entitled, An act for the collection and commutation of quit rents," paſſed the eleventh day of April, one thouſand ſeven hundred and eighty-ſeven.

Reciting the caſe of John Leake.

And whereas part of the real eſtate late of John Turner, lying in the middle diſtrict, and forfeited to the People of this State, by the conviction of the ſaid John Turner, hath been ſold, and it now appears that the ſame was mortgaged to John Leake, of the city of New-York (for ſecuring the payment of the ſum of two hundred and fifty pounds) who hath cauſed a ſuit to be brought againſt the purchaſer of the ſaid land: *Therefore,*

Treaſurer to pay ſaid Leake the amount of his mortgage.

XII. *Be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer of this State, and he is hereby required, upon the ſaid John Leake executing to the People of this State, an aſſignment of the ſaid bond and mortgage ſo executed by the ſaid John Turner, out of any monies in the treaſury, not otherwiſe appropriated, to pay to the ſaid John Leake, or to his Attorney, the ſaid ſum of two hundred and fifty pounds, and the coſts of the ſaid ſuit, to be taxed by one of the Judges of the Supreme Court, and that no proſecutions ſhall hereafter he had on the ſaid bond or mortgage.

Treaſurer directed in cancelling former certificates.

XIII. *And be it further enacted by the authority aforeſaid,* That the Treaſurer of the State be, and he is hereby authorized and required, after payment of the ſeveral ſums herein before mentioned, and the firſt moiety of the monies to be paid to the United States of America in Congreſs aſſembled, purſuant to the act, entitled, "An act acceding to the acts of Congreſs, of the ſecond day of Auguſt, one thouſand ſeven hundred and eighty-ſix;" and alſo the amount of penſions, and arrears of penſions, which ſhall be payable to invalids by the firſt day of June next, purſuant to the act, entitled, "An act making proviſion for officers, ſoldiers, and ſeamen who have been diſabled in the ſervice of the United States;" and the amount of the new emiſſion money ſtill in circulation, to ſet apart and apply ſuch ſum as will be ſufficient for the payment of one quarter part of the certificates iſſued and to be iſſued for the four fifth parts of the intereſt of the public ſecurities which ſhall have been loaned to this State, by virtue of the act, entitled, "An act to emit the ſum of two hundred thouſand pounds in bills of credit, for the purpoſes therein mentioned," paſſed the eighteenth day of April, one thouſand ſeven hundred and eighty-ſix; which ſaid ſum of fifty thouſand pounds, ſhall be diſtributed to the ſeveral holders of the ſaid certificates, in proportion to the reſpective amounts thereof, and the ſum paid upon each certificate ſhall, by the ſaid Treaſurer, be indorſed thereon.

CHAP.

## CHAP. C.

AN ACT *to veſt all the right and claim of the People of this State, to the lands and tenements, whereof Thomas Hicks died ſeized, in the perſons therein named,* Paſſed the 21ſt of April, 1787.

Preamble, Reciting that Thomas Hicks, died ſeized of certain lands, &c.

WHEREAS Thomas Hicks, late of Little Neck, in the townſhip of Fluſhing, Queens county on Naſſau Iſland, Attorney at law deceaſed, being ſeized in fee ſimple, of certain lands and tenements within this State, on the nineteenth day of June, one thouſand ſeven hundred and eighty two, made his laſt will and teſtament, duly executed in the preſence of three credible witneſſes, and thereby deviſed all his lands and real eſtate, to his ſiſter Mary Hicks (the then wife fo Stephen Hicks) and the heirs of her body, lawfully begotten, or to be begotten, and for want of ſuch iſſue to the ſaid Stephen Hicks, and to the heirs of his body lawfully to be begotten, and for the want of ſuch iſſue, to Richard Penn Hicks, ſon of his late friend and couſin William Hicks of Pennſylvania, deceaſed, and for want of ſuch iſſue to the right heirs of the ſaid Richard Penn Hicks, as by the ſaid original will, filed in the prerogative office, fully appears. And whereas it is repreſented to this Legiſlature, that the ſaid Thomas Hicks, died, ſo ſeized as aforeſaid, leaving the ſaid will in full force, and that thereupon the ſaid Mary Hicks, became ſeized of the lands and tenements of the teſtator, by virtue of the ſaid deviſe, but died without iſſue; that upon her death, the ſaid Stephen Hicks, entered upon the ſame, and alſo died without iſſue; by means whereof, according to the will and intention of the ſaid teſtator, the lands and tenements whereof he died ſeized, would have veſted in the ſaid Richard Penn Hicks, in fee tail general, but by the operation of the late laws of this State, for aboliſhing entails, the eſtate in fee tail general, deviſed to the ſaid Mary Hicks, was converted into a fee ſimple; and that ſhe having been born out of Wedlock, can have no heirs whereby the ſaid lands and tenements might eſcheat to the People of this State. And it being further repreſented that the ſaid Richard Penn Hicks, is an orphan, deſtitute of any ſupport, but what is ſo provided for him by the ſaid teſtator; and the Legiſlature conceiving it juſt and reaſonable, that the eſtate veſted in the People of this State, by the means aforeſaid, ſhould deſcend, according to his intentions expreſſed in the ſaid will, as far as is conſiſtent with the above mentioned law: *Therefore,*

Said lands declared to be veſted in Richard Penn Hicks and his heirs.

I. BE *it enacted by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful to and for the ſaid Richard Penn Hicks, his heirs and aſſigns, to enter into, have hold and enjoy for his and their own proper uſe, in fee ſimple forever, all and ſingular the lands, tenements and hereditaments, whereof the ſaid teſtator ſo died ſeized, and which are deviſed to him in remainder, in fee tail general as aforeſaid, except a certain farm called the new field now in the poſſeſſion of James Hicks, ſituated in North Hampſtead in Queens county, and a ſmall piece of ſalt meadow, belonging to the ſame) and have and maintain any ſuit or action, for the recovery thereof, notwithſtanding any right or claim, which the people of this State, may or can have or make tothe ſame, by reaſon of the eſcheat thereof as aforeſaid, or in any other manner whatſoever, and altho' no office hath been found reſpecting the ſame.

Except a certain farm in poſſeſſion of James Hicks.

II. *And be it further enacted by the authority aforeſaid,* That all the eſtate, right, title and intereſt of the People of this State, in and to the ſaid farm, called Newfield, and the piece of ſalt meadow belonging thereto, ſhall veſt in the ſaid James Hicks and Deborah his wife, during their natural lives, and the life of the ſurvivor of them; and from and after the deceaſe of ſuch ſurvivor, ſhall veſt in Mary Hicks, daughter of William Hicks, of North Hempſtead, in the county of Queens, her heirs and aſſigns.

Which is declared to be veſted in ſaid James Hicks.

*Provided,* That nothing in this act contained, ſhall be conſtrued to effect or injuire any right, title, intereſt or eſtate in and to the ſaid lands, tenements and hereditaments herein before mentioned, or any part thereof, which any perſon or perſons,

This act not to affect the claim or title of individuals againſt ſaid eſtate.

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whomſoever could, or might have claim, challenge or demand, if this act had not been paſſed; but ſuch eſtate only as the People of this State might lawfully claim by the means aforeſaid, ſhall veſt in the perſons herein before named, in the proportions and in the manner aforeſaid.

## CHAP. CI.

AN ACT *for veſting the Eſtate of David Colden, deceaſed, not already ſold, in Cadwallader Colden.* Paſſed the 21ſt of April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That the real eſtate of the late David Colden, except ſuch parts thereof as have been already ſold by the Commiſſioners of Forfeitures, or by the Commiſſioners for procuring a ſum in ſpecie, or any of them, ſhall be and is hereby veſted in Cadwallader Colden, of the county of Ulſter, Eſquire, his heirs, executors, and adminiſtrators, in truſt for the children of the ſaid David Colden; and that the ſaid Cadwallader Colden, his heirs, executors, or adminiſtrators, ſhall and may, by virtue of this act, have and maintain in his or their own name or names, any action or actions that ſhall or may be neceſſary for the recovery of the ſame, or of the poſſeſſion thereof, or of any part or parts thereof, in like manner, and no other, as the ſaid David Colden, might or could do, if he was in full life, and had not been attainted.

Such parts of the eſtate of David Colden as are not ſold, veſted in Cadwallader Colden, in truſt for the children of ſaid David Colden.

II. *Provided always, and it is hereby further enacted by the authority aforeſaid,* That the ſaid Cadwallader Colden, his heirs, executors, or adminiſtrators, do and ſhall pay to the Commiſſioners of Forfeitures for the weſtern diſtrict of this State, or ſome or one of them, or the Treaſurer of this State for the time being, in any public ſecurities receivable by law upon the ſale of forfeited eſtates, the amount at which ſuch lands as are mentioned in a certain location made by the ſaid Cadwallader Colden, on the firſt day of Auguſt laſt paſt, and delivered to the Commiſſioners of Forfeitures of the ſaid weſtern diſtrict, and not already ſold, ſhall or may be appraiſed, in ſuch parts and proportions, and by ſuch appraiſers for each part or portion, as the ſaid Commiſſioners ſhall deem expedient, in the mode preſcribed by the thirty-ſeventh and thirty-ninth ſections of the act, entitled, "An act for the ſpeedy ſale of the confiſcated and forfeited eſtates within this State, and for other purpoſes therein mentioned," paſſed the twelfth day of May, one thouſand ſeven hundred and eighty-four, within three calendar months after the ſame lands ſhall be ſo appraiſed. And that the wages of the Appraiſers, and the coſts and expences of making ſuch appraiſements and ſurveys, ſhall be paid and borne by ſaid Cadwallader Colden.

Cadwallader Colden how to redeem ſaid eſtate.

*And provided alſo,* That this act ſhall not take effect, until the ſaid Cadwallader Colden ſhall procure and deliver unto the Surveyor General of this State for the time being, all the maps returns, and other papers belonging to the office of Surveyor General of the late colony of New-York, which were in the poſſeſſion of the ſaid David Colden, or any other perſon or perſons, for his uſe, at the time of his deceaſe, nor until the ſaid Cadwallader Colden ſhall make affidavit before one of the Judges of the Supreme Court of Judicature, that he has delivered to the ſaid Surveyor General all ſuch maps, returns, and other papers belonging to the office of Surveyor General of the late colony of New-York, which, to the beſt of his the ſaid Cadwallader Colden's knowledge and belief, were in the poſſeſſion of the ſaid David Colden, or any other perſon or perſons, for his uſe, at the time of his deceaſe.

Proviſo, reſpecting the commencement of the force of this act.

III. *And be it further enacted by the authority aforeſaid,* That the Commiſſioners of Forfeitures for the weſtern diſtrict, ſhall and may proceed to have the whole of the lands mentioned in the ſaid location, not heretofore ſold, appraiſed with all convenient ſpeed, in the mode mentioned and preſcribed in and by the ſaid ſections of the act aforeſaid; and that the ſaid Cadwallader Colden, or his heirs, after having complied with the terms of this act, may ſell or mortgage ſuch part of the eſtate of the ſaid David Colden,

Said eſtate to be appraiſed immediately.

Colden, ſo as aforeſaid veſted in him, for repayment of ſuch money as he may advance, to pay the ſum at which the ſaid lands ſhall be appraiſed, and the incidental expences attending the ſame.

*Provided*, That nothing in this act contained, ſhall be conſtrued to affect or injure any rights of any perſon claiming under the ſaid David Colden, deceaſed; but ſuch rights ſhall be and remain in full force, any thing in this or any other act to the contrary notwithſtanding. Proviſo.

## CHAP. CII.

AN ACT *for the Relief of Perſons who paid Money into the Treaſury of this State, in Conſequence of a Reſolution of the Committee of Safety, of the firſt Day of March, One Thouſand Seven Hundred and Seventy-ſeven, and for other Purpoſes therein mentioned.* Paſſed the 21ſt of April, 1787.

WHEREAS ſeveral perſons have paid monies into the treaſury of this State, in conſequence of a reſolution of the Committee of Safety, made the firſt day of March, one thouſand ſeven hundred and ſeventy-ſeven; but as the ſaid reſolution hath not been adopted or confirmed by any Convention, nor by the Conſtitution, or the Legiſlature of this State, many of the perſons who ſo paid money into the treaſury, have petitioned the Legiſlature for relief. *Therefore*, Preamble.

I. BE it Enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame*, That it ſhall and may be lawful for the Treaſurer of this State for the time being, and he is hereby authoriſed and required to give to every perſon who hath paid money into the treaſury, in conſequence of the ſaid reſolution, or to the executors or adminiſtrators of ſuch perſon, a certificate for the amount of the money ſo paid into the Treaſury, with the intereſt thereof, at the rate of five pounds per cent. per annum, from the time the ſame was ſo paid into the treaſury, if the ſame was ſo paid before the firſt day of September, in the year of our Lord, one thouſand ſeven hundred and ſeventy-ſeven; but if the ſame was ſo paid after that day, then ſuch certificate ſhall be given for the value thereof, after reducing the ſame according to the Continental ſcale of depreciation, with intereſt for the ſame, at the rate aforeſaid, from the time the ſame was ſo paid; which certificate ſhall be payable with intereſt at the rate of five per cent. per annum, and ſhall be received and taken in all payments, where any other certificates given by the Treaſurer of this State are or ſhall be receivable by law. Treaſurer directed in iſſuing certificates for money paid on a reſolution of the Committee of Safety

*Provided always*, That no ſuch certificate ſhall be given to any perſon, for any money ſo paid into the treaſury, as due to any perſon or perſons whoſe eſtate hath been forfeited to the people of this State; but where monies have been ſo paid upon or in diſcharge of any bond or mortgage to any perſon whoſe eſtate is forfeited to the People of the State of New-York, ſuch payments ſhall be conſidered as good and effectual for the ſpecie amount of the monies ſo paid, and no more; ſuch amount to be ſettled agreeable to the ſcale of depreciation herein before mentioned, and ſuch mortgages may be diſcharged in the manner directed by an act, entitled, "An act to enable the Clerks of the reſpective cities and counties within this State, to cancel the records of certain mortgages made and executed to perſons whoſe eſtates are forfeited, on proof that ſuch mortgages are ſatisfied. And the Treaſurer of this State, and the Juſtices of the Supreme Court ſhall make ſuch inquiries, and give ſuch certificates as may be neceſſary for that purpoſe. Proviſo.

II. *And be it further enacted by the authority aforeſaid*, That the Treaſurer of this State ſhall be, and hereby is diſcharged and indemnified of, from, and againſt all ſuits whatſoever, which have been or ſhall be brought againſt him, for or on account of any money ſo paid into the treaſury as aforeſaid; and this act ſhall or may be pleaded or given in evidence, in diſcharge of any ſuch ſuit. Treaſurer diſcharged from ſuits bro't againſt him for monies ſo paid into the treaſury.

And whereas all the eſtates, both real and perſonal, of Iſrael Seaman and Adam Seaman, late of the county of Weſtcheſter, are become forfeited to the People of the Reciting the caſe of Iſrael and Adam Seaman.

State

State of New-York, by the conviction of the ſaid Iſrael Seaman and Adam Seaman, and the Commiſſioners of Forfeitures for the ſouthern diſtrict of this State have ſold and recovered ſuch parts of the eſtate of the ſaid Iſrael Seaman and Adam Seaman, as they have been able to diſcover. And whereas the ſaid Iſrael Seaman and Adam Seaman, at the time of their reſpective convictions, were reſpectively indebted to James Franklin, of the city of New-York, merchant, and ſundry other perſons, in divers ſums of money, and the ſaid James Franklin hath repreſented to the Legiſlature, that there are debts due, and other property belonging to the eſtates of the ſaid Iſrael Seaman and Adam Seaman, which have not been diſcovered by the ſaid Commiſſioners, and prayed that the ſame may be veſted in Truſtees, to be recovered and applied to the diſcharge of the debts owing by the ſaid Iſrael Seaman and Adam Seaman, at the time of their convictions reſpectively: *Therefore,*

Such parts of ſaid Seamans' eſtates as are not ſold, veſted in James Franklin, in truſt for the creditors.

III. *Be it enacted by the authority aforeſaid,* That all the joint and ſeveral eſtates of the ſaid Iſrael Seaman and Adam Seaman, both real and perſonal, debts, and ſums of money whatſoever, due and owing to them at the time of their reſpective convictions, and not ſold or recovered by the Commiſſioners of Forfeitures, nor paid into the treaſury by the debtors, ſhall be, and hereby are, veſted in the ſaid James Franklin, his heirs, executors, and adminiſtrators, in truſt to ſell all ſuch real eſtates, and to recover and receive all ſuch debts and ſums of money, and to apply the produce thereof, in the firſt place, to pay the coſts, charges, and expences of ſuch ſale and recovery, and the reſidue thereof towards payment of the debts owing by the ſaid Iſrael Seaman and Adam Seaman, at the time of their reſpective convictions, to ſuch perſons, in equal proportions, as have not applied for payment to the Treaſurer of this State; and if any ſurplus remains after payment of ſuch debts, the ſame ſhall be paid to the Treaſurer of this State.

Said Franklin authoriſed to recover debts, &c.

IV. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for the ſaid James Franklin, his executors or adminiſtrators, in his or their own names, to ſue for and recover all ſuch debts and ſums of money hereby veſted in them; and it ſhall be ſufficient for the plaintiff in any ſuch ſuit or action, to alledge that the defendant or defendants is or are indebted; or if the ſuit or action be againſt heirs, executors, or adminiſtrators, then to alledge that the anceſtor, teſtator, or inteſtate was indebted to the plaintiff in the ſum ſo due and owing, whereby an action accrued to the plaintiff, without ſetting forth the ſpecial matter; and ſhall and may give this act and the ſpecial matter in evidence.

Treaſurer to pay Daniel Williams for certain ſervices.

V. *And be it further enacted by the authority aforeſaid,* That the Treaſurer of this State be, and he hereby is authoriſed and directed to iſſue to Daniel Williams, of Weſtcheſter county, a certificate for ſuch ſum as the Auditor of the State ſhall certify to be due to him for his ſervices as a guide to the army, in the ſaid county, in the year one thouſand ſeven hundred and ſeventy-ſeven, and that for ſuch ſervices he receive pay as a Lieutenant; which certificate ſhall be dated the thirty-firſt day of December, one thouſand ſeven hundred and ſeventy-ſeven, and bear intereſt at the rate of five *per centum per annum*; and that the Treaſurer charge the ſame to the United States.

Recital.

And whereas the mode provided by the firſt ſection of the act, entitled, "An act further to amend an act for the ſpeedy ſale of the confiſcated and forfeited eſtates within this State, and for other purpoſes therein mentioned;" for aſcertaining whether loan-office certificates of the other States were actually iſſued at the time of granting thereof, to citizens of this State, is not ſufficiently preciſe or effectual. *Therefore,*

What loan-office certificates may be received in certain payments.

VI. *Be it enacted by the authority aforeſaid,* That in all payments hereafter to be made to the Commiſſioners of Forfeitures, or any of them, on the ſales of forfeited property, or to the Treaſurer of this State, on the ſales of unappropriated lands, if any certificates iſſued out of any Continental loan-office in any of the United States, other than this State, ſhall be offered in ſuch payments, the ſaid Commiſſioners of Forfeitures and Treaſurer reſpectively, are hereby required to examine on oath the perſon or perſons to whom ſuch certificates were originally iſſued, concerning the time they were reſpectively iſſued, if ſuch perſon or perſons are now inhabitants of this State; but if ſuch perſon or perſons be dead, or removed out of this State, then the ſaid Commiſſioners of Forfeitures and Treaſurer reſpectively ſhall examine on oath the perſon or perſons offering the ſame in payment, touching the time aforeſaid; and unleſs it ſhall appear to their

their ſatisfaction reſpectively, that ſuch certificates were actually iſſued prior to the twenty-ſeventh day of September, one thouſand ſeven hundred and eighty-five, to citizens of this State, who were inhabitants of this State at the time of iſſuing the ſame, ſuch certificates ſhall not be received, nor ſhall any certificates iſſued out of the loan-office of this State, be received by ſuch Commiſſioners or Treaſurer, but ſuch as are counterſigned by Dirck Tenbroeck, or Abraham Yates, junior.

Treaſurer how to receive certificates.

VII. *And be it further enacted by the authority aforeſaid*, That the Treaſurer of this State is hereby authoriſed and required to receive from all perſons who are indebted to the People of this State, the payment of ſuch debts reſpectively, in any of the certificates or public ſecurities iſſued from the Treaſury of the State.

Exceptions.

*Provided always*, That this clauſe ſhall not extend to any payment to be made for forfeited property ſold for ſpecie, or bills of the new emiſſion, nor to payments for quit rents heretofore directed by law to be paid in ſpecie, nor for articles of impoſt, or taxes impoſed, or hereafter to be impoſed; which ſaid ſeveral matters ſhall remain as heretofore.

Recital.

And whereas the ſurviving Truſtees of the eſtate of Abraham De Peyſter, formerly Treaſurer of the late colony of New-York, have, on the twenty-ninth day of March, one thouſand ſeven hundred and eighty-ſix, reported to the Legiſlature, that the books, receipts, and other documents, relating to the execution of their truſt, were, during the late war, loſt; but that they would endeavor to extract an account for the information of the Legiſlature, from ſuch papers as were ſtill to be found, which accounts have not yet been produced: *Therefore*,

Auditor directed reſpecting the accounts, &c. of Abraham De Peyſter, late Treaſurer.

VIII. *Be it further enacted by the authority aforeſaid*, That John Cruger, and Leonard Liſpenard, Eſquires, ſurviving Truſtees of the eſtate aforeſaid, do, without delay, deliver to the Auditor of this State, the ſaid account; and it is hereby made the duty of the ſaid Auditor to receive and audit the ſame, in the beſt manner he can, from the vouchers ſtill to be found, and from the information he can obtain; and that he cauſe ſuch books, papers, and money, as ſtill remain in the hands of the ſaid Truſtees, appertaining to the ſaid eſtate, to be delivered into the hands of the Treaſurer of this State, as ſoon as the ſaid audit ſhall be compleated; and the ſaid Treaſurer is hereby authoriſed and required to receive the ſaid books, papers, money, and other documents, and to proceed in the execution of the ſaid truſt, in the ſame manner as the ſaid Truſtees might have done, had this act not been paſſed.

Relieving James Giles.

IX. *And be it further enacted by the authority aforeſaid*, That it ſhall be lawful for the Auditors appointed in purſuance of the "Act for liquidating and ſettling the accounts of troops of this State in the ſervices of the United States;" to liquidate and ſettle the account of, and grant a certificate to James Giles, for the depreciation of his pay for ſervice as Conductor of ordnance and military ſtores.

Recital.

And whereas the inhabitants of the north-eaſt precinct of the county of Dutcheſs, have repreſented to the Legiſlature, that by reaſon of their not having been able to obtain the Collector's liſts, they were unable to collect the arrears of taxes in certificates, within the time limited for that purpoſe by the act, entitled, "An act for the more effectual collection of the arrears of taxes," paſſed the thirty-firſt day of March, one thouſand ſeven hundred and eighty-ſix; and have prayed further time to pay the ſaid arrears in certificates as aforeſaid; which requeſt appears to the Legiſlature to be reaſonable:

*Therefore*,

Inhabitants of the north eaſt precinct of Dutcheſs county, allowed a farther time to pay their arrears of taxes.

X. *Be it further enacted by the authority aforeſaid*, That the inhabitants of the ſaid precinct ſhall be allowed to pay the ſaid arrears, at any time before the firſt day of October next, in the certificates mentioned in the act aforeſaid; which arrears ſhall be aſſeſſed and collected in the manner ſpecified in and by the act, entitled, "An act to compel the payment of the arrears of taxes, for enforcing the payment of fines and amerciaments, obliging Sheriffs to give ſecurity for the due execution of their offices, and for other purpoſes." And each and every of the preſent Aſſeſſors, Collectors, and Superviſors of the ſaid precinct ſhall be, and hereby are reſpectively veſted with all the powers and authorities, and made ſubject to all the penalties and forfeitures in the ſame laſt mentioned act preſcribed.

And

Recital.

And whereas Peter Byvanck, by his petition, hath repreſented to the Legiſlature, t he was prevented by accident from exhibiting his claim againſt the eſtate of Iſrael S man and Joſhua Pell, forfeited to the People of this State: *Therefore,*

Peter Byvanck relieved in the caſes of IſraelSeaman and Joſhua Pell.

XI. *Be it further enacted by the authority aforeſaid,* That the Treaſurer of State be, and he is hereby authoriſed and directed to receive the certified demand of ſaid Peter Byvanck, againſt the eſtates of the ſaid Iſrael Seaman and Joſhua Pell, in ſame manner as if he had made application within the time required by the forty-ſec and forty-third ſections of the act, entitled, "An act for the ſpeedy ſale of the con cated and forfeited eſtates within this State, and for other purpoſes therein mention and to grant a certificate for the ſum to which he ſhall appear to be entitled, accord to the true intent and meaning of the ſaid act.

Recital.

And whereas it is repreſented to the Legiſlature, by the petition of Charles Stew junior, late a Serjeant in a regiment of levies in the ſervice of this State, commanded Frederick Weiſſenfels, that he hath not received any compenſation for his ſervices that regiment. And whereas the ſaid Frederick Weiſſenfels inſtead of paying or de vering the certificates entruſted to him for that purpoſe, to the officers and ſoldiers the ſaid regiment, hath, in divers inſtances, applied them to his own uſe, and is n unable to make compenſation for the ſame; and it being juſt that ſuch perſons ſho be indemnified by the State: *Therefore,*

Col. Weiſſenfels' regiment relieved.

XII. *Be it further enacted by the authority aforeſaid,* That the Treaſurer this State ſhall iſſue certificates to all ſuch of the officers and ſoldiers of the ſaid regime for the ſums reſpectively due to them, as ſhall by ſatisfactory evidence, make it appe to the ſaid Treaſurer that they have not heretofore received their certificates; and t the certificates ſo to be iſſued by the ſaid Treaſurer, ſhall be of the like tenor and eff of the certificates heretofore iſſued to ſuch officers and ſoldiers reſpectively.

Recital.

And whereas one certain farm, ſituate in Rumbout precinct, in Dutcheſs coun containing by eſtimation one hundred and thirty-four acres, was heretofore ſold a conveyed by the Commiſſioners of Forfeitures for the middle diſtrict, to Zephani Platt, Eſquire, in fee ſimple; and alſo one other farm, ſituate in the ſaid precinct, and co taining by eſtimation two hundred acres, was in like manner ſold and conveyed to Pe Dates, as parts of the eſtate forfeited by the attainder of John Watts: And it appear by the report of the Attorney General, that the ſaid John Watts was tenant by t courteſy only in the ſaid farms and premiſes, and that the reverſion is veſted in Robe Watts, his ſon, as heir at law to his mother, Ann Watts, deceaſed. And whereas it ſuggeſted in the ſaid report, that the ſaid Robert Watts would be willing to releaſe h title to the ſaid reverſion, upon being paid the value thereof, to be aſcertained by a praiſement, whereby the purchaſers under the State would be ſecured in their title: *Therefore,*

Commiſſioners of Forfeitures to join in chuſing appraiſers of Robert Watts's eſtate.

XIII. *Be it further enacted by the authority aforeſaid,* That the Commiſſioners forfeitures for the middle diſtrict, be and they hereby are authorized and directe to join with the ſaid Robert Watts, in the appointment of two appraiſers for t purpoſe of appraiſing the ſaid farms; one of which ſaid appraiſers to be nominat by the ſaid Commiſſioners, and the other by the ſaid Robert Watts; and the ſa appraiſers ſo appointed, ſhall have power to appraiſe the value of the ſaid reverſio of and in the ſame farms; and in caſe of diſagreement to nominate a third perſon t make the appraiſement in their ſtead. And the Treaſurer of the State is hereby di

Treaſurer to pay ſaid Watts the amount of ſuch appraiſement.

rected to pay to the ſaid Robert Watts, his heirs or aſſigns, ſuch ſums of mon as by the report of the ſaid appraiſers, or in caſe of diſagreement by the report the ſaid perſon ſo appointed by them, ſhall be determined to be the value of the re verſion ſo veſted in him the ſaid Robert Watts, of and in the ſaid ſeveral farms an premiſes; upon receipt whereof the ſaid Robert Watts, his heirs or aſſigns, as th caſe may be, ſhall forthwith, by good and ſufficient conveyances in the law, releaſe t the reſpective purchaſers of the ſaid farms, their heirs or aſſigns, all his or their eſtat right, title, and intereſt, in and to the ſaid farms and premiſes.

Two acts repealed.

XIV. *And be it further enacted by the authority aforeſaid,* That the act, enti tled "An act to liquidate the depreciation of the pay of the officers of the militar hoſpital, and medical department, and of the officers and privates of the levies an militia

militia of this State, made priſoners by the enemy." And the act, entitled "An act, for the ſettlement of the pay of the levies and militia, for their ſervices in the late war, and for other purpoſes therein mentioned;" ſhall be and hereby are reſpectively repealed.

Recital.

And whereas Dominick Linch, by petition to this Legiſlature, hath repreſented, that Franciſco Pablo De Vidal, being an alien, had purchaſed of Chriſtian Peirce and Chriſtiana his wife, a certain houſe and lot of ground, in the city of New-York, of the deſcription following. All that certain meſſuage or dwelling houſe, lot, piece or parcel of ground ſituate, lying and being in the city of New-York, being part of a lot known by No. 80, bounded north weſt, by King George ſtreet, in the rear by lot No. 81, on the north eaſt ſide, by lot No. 87, and on the ſouth weſt by part of the ſaid lot, No. 80, containing in length one hundred feet; and in breadth twenty one feet, be the ſame more or leſs, which houſe and lot he has conveyed to the ſaid Dominick Lynch, in truſt to be diſpoſed of for the benefit of his creditors; and the ſaid Dominick Lynch, hath prayed that the ſaid conveyance might be confirmed to him, to have the ſame effect as if the ſaid Pablo De Vidal had not been an alien: *Therefore,*

A certain conveyance from Pablo De Vidal, to be effectual as though he was a ſubject.

XV. *Be it further enacted by the authority aforeſaid,* That the deeds of conveyance from the ſaid Franciſco Pablo De Vidal, to the ſaid Dominick Lynch, bearing date reſpectively the ſeventeenth and eighteenth days of November, in the year one thouſand ſeven hundred and eighty ſix, ſhall have the ſame force and effect, to veſt the eſtate of and in the ſaid houſe and lot in the ſaid Dominick Lynch, his heirs and aſſigns, upon the truſts in the ſaid deed mentioned, as if the ſaid Franciſco Pablo De Vidal had been a natural born ſubject of this State.

Recital.

And whereas, ſundry proprietors of a tract of land, called the townſhip of New-Stamford, in Ulſter county, have by petition ſet forth, that ſome time in the year of our Lord, one thouſand ſeven hundred and fifty four, the ſaid tract was ſurveyed at the requeſt of the proprietors, and divided into lots by a certain Henry Wooſter, who affixed the names of the different proprietors to their reſpective lots, on a map or plan of the ſaid ſurvey. That the lines of the ſaid lots cannot now be diſcovered without a new ſurvey, that many of the proprietors of the ſaid townſhip are now without the State, and praying that the ſaid diviſion of the ſaid Henry Wooſter might be confirmed, and a law paſſed for making a reſurvey of the ſaid townſhips, and providing for the expences of the ſame: *Therefore,*

William Cockburn to ſurvey and divide townſhip of New-Stamford.

XVI. *Be it enacted by the authority aforeſaid,* That William Cockburn be, and he is hereby appointed ſole Commiſſioner for making a ſurvey and diviſion of the ſaid townſhip or tract of land, that ſo far as the ſaid Commiſſioner can collect ſatisfactory information, of the diviſion and ſurvey made by the ſaid Henry Wooſter, it ſhall be his duty to purſue the ſame, in making the reſurvey and diviſion of the ſaid tract of land, ſo that ſuch lot or lots of land therein, as were ſurveyed and ſet apart by the ſaid Henry Wooſter, as the property of any one of the ſaid proprietors, ſhall be ſurveyed and ſet apart by the Commiſſioner hereby appointed, for the ſame proprietor, or any perſon or perſons legally claiming under him.

Directing ſaid Cockburn in his proceedings.

XVII. *And be it further enacted by the authority aforeſaid,* That the ſaid Commiſſioner ſhall forthwith proceed to make a ſurvey of the ſaid tract of land, and divide the ſame among the different proprietors thereof, always purſuing the diviſion made by the ſaid Henry Wooſter, when he can obtain ſatisfactory information reſpecting the ſame: And if it ſhall ſo happen that the ſaid Commiſſioner cannot obtain any ſatisfactory information, of the ſaid Henry Wooſter's ſurvey of any part of the ſaid tract of land, or if any part of the ſame ſhall not have been divided by the ſaid Henry Wooſter, that then with reſpect to ſuch part, the ſaid Commiſſioner ſhall proceed to make diviſion of the ſame, in the mode preſcribed for the Commiſſioners appointed by virtue of an act, entitled "An act for the partition of lands," which ſaid diviſion ſhall be as valid as if all the proceedings in the diviſion of this tract of land, were had under the ſaid act. And to defray the expence of the ſaid ſurvey and diviſion,

XVIII. *Be*

Accounts how to be audited and paid.

XVIII. *Be it further enacted by the authority aforeſaid*, That after the ſaid ſurvey and diviſion ſhall be completed, the ſaid Commiſſioner ſhall preſent his accounts of the whole expence of the ſaid ſurvey, to one of the Judges of the Court of Common Pleas, of the county of Ulſter, who is hereby impowered to audit and paſs the ſame, the ſaid Commiſſioner firſt giving ſix weeks notice of the time and place of auditing his ſaid accounts, in two of the news-papers, printed in the city of New-York; and after the ſaid account ſhall be ſo audited, the ſaid Commiſſioner ſhall apportion the whole expence of the ſaid ſurvey and diviſion, among the different proprietors in proportion to the number of acres ſurveyed, and ſet apart for them reſpectively, and ſhall deliver an account of ſuch proportion, to ſuch of the ſaid proprietors as may be found within this State, and if any of the ſaid proprietors cannot be found within this State, then the ſaid Commiſſioner ſhall publiſh the accounts of the proportion of ſuch abſentee in at leaſt two of the news-papers, printed in the State of New-York, for at leaſt three months; and if the ſaid accounts ſhall not be paid within four weeks from the time of preſenting the ſame, or within four months from the time of commencing the ſaid publication, then the ſaid Commiſſioner is hereby authorized to ſell at public auction, ſuch part of the lands ſet apart for the ſaid perſon, ſo making default of payment, as will be ſufficient to diſcharge the ſaid accounts, together with the charges incident to ſuch ſale, rendering the overplus, if any there be, to the perſon whoſe land ſhall be ſo ſold, on demand, and the ſaid Commiſſioner is hereby authorized on the ſale of ſuch land for the purpoſes aforeſaid, to make and execute good and effectual conveyances in the law for the ſame, to the purchaſer or purchaſers thereof, which ſaid conveyances ſhall be as good and effectual to all intents and purpoſes, as if the ſame had been executed by the perſon or perſons for whom the land ſo ſold, was ſet apart and ſurveyed. And the Commiſſioner, Surveyor and other perſons employed in making the ſaid ſurvey, ſhall be allowed for their ſervices, after the rate allowed by the act, entitled "An act for the partition of lands."

Commiſſioners duty, after finiſhing ſuch ſurvey.

XIX. *And be it further enacted by the authority aforeſaid*, That when the ſaid Commiſſioners ſhall have compleated the ſaid ſurvey and diviſion, he ſhall make two maps, and two fair copies of the field-books of the ſame ſurvey, with the names of the ſeveral proprietors affixed to their reſpective lots therein; and within ſix weeks after completing the ſaid ſurvey, ſhall file one of the ſaid maps and field-books in the office of the Clerk of the county of Ulſter, and the other map and field-book in the office of the Secretary of the State of New-York; which ſaid map and field-book ſhall be a record of the ſaid diviſion, and of the title of the different proprietors to the reſpective lots on which their names, or the names of them under whom they claim, ſhall be reſpectively marked.

Proviſo.

*Provided always*, That nothing in this act ſhall be ſo conſtrued as to give title to any perſon or perſons to any part of the ſaid tract, who could not, at the time of paſſing this act, have legally claimed ſuch proportion as tenant in common with the other proprietors, or to defeat any ſecurity upon the ſame, by mortgage, judgment, or otherwiſe.

Further proviſo.

*And provided further*, That the ſaid diviſion ſhall not be received as evidence in any controverſy of boundary between the ſaid townſhip, and the patents adjoining thereto.

Commiſſioner to be on oath.

XX. *And be it further enacted by the authority aforeſaid*, That the ſaid Commiſſioner ſhall, before he begins the ſaid ſurvey or diviſion, take an oath before one of the Judges of the Court of Common Pleas for the county of Ulſter, for the faithful performance thereof, and of the ſeveral things required of him by this act, according to the beſt of his ſkill and ability.

Reciting the caſe of George Turner.

And whereas George Turner, late of Philadelphia, hath ſet forth by petition that he, had located three hundred and ſixty-five acres of land, in the county of Albany, forfeited to the people of this State; but that full payment of the ſame was not made within the time limited by law, for reaſons in the ſaid petition mentioned: *Therefore*,

Relief granted to ſaid Turner.

XXI. *Be it further enacted by the authority aforeſaid*, That the Commiſſioners of Forfeitures for the weſtern diſtrict do, and they are hereby impowered and required to execute, within three calendar months from the paſſing of this act (if full payment

ſhall

ſhall be previouſly made to them of ſuch part of the purchaſe money as yet remains to be diſcharged, with intereſt from the time the ſame became due) a proper deed or conveyance, veſting in him the ſaid George Turner, his heirs and aſſigns forever, in fee ſimple, all the right and intereſt of the People of this State, of, in, or to the ſaid three hundred and ſixty-five acres of land.

Reciting the caſe of Francis Dominick

And whereas Francis Dominick hath ſet forth by his petition, that he became the purchaſer of one half of the townſhip number twenty-five, in Jeſſup's, *alias* Totten and Croſsfield's purchaſe, for which he hath not been able to make due payment, for the reaſons in the ſaid petition contained: *Therefore,*

Relief how to be granted.

XXII. *Be it further enacted by the authority aforeſaid,* That the Commiſſioners of the Land-Office of this State do, and they are hereby empowered and required, within three calendar months from the paſſing of this act (if full payment ſhall be previouſly made to the Treaſurer of this State, of ſuch part of the purchaſe money as yet remains to be diſcharged, with intereſt from the time the ſame became due) to cauſe letters patent under the great ſeal of this State to iſſue to the ſaid Francis Dominick, veſting in him the ſaid Francis Dominick, his heirs and aſſigns forever, the fee ſimple of the moiety or half part of the townſhip aforeſaid, with ſuch apt and proper words of deſcription as the ſaid Commiſſioners of the Land-Office ſhall deem neceſſary.

Recital.

And whereas the Courts of Common Pleas and General Seſſions of the Peace, in and for the county of Waſhington, are now held in Salem, in the ſaid county, and it hath been repreſented to this Legiſlature, that it would be more convenient for the inhabitants of the ſaid county, to hold the ſaid courts once in every year in Argyle: *Therefore,*

Courts in Waſhington county, where to be holden.

XXIII. *Be it further enacted by the authority aforeſaid,* That from and after the paſſing this act, the courts of Common Pleas and General Seſſions of the Peace, in and for the county of Waſhington, ſhall thenceforth be held at Salem aforeſaid, on the laſt Tueſday in May, and on the firſt Tueſday in November in every year; and at the houſe of Adiel Sherwood, Eſquire, at Fort Edward, in the townſhip of Argyle, on the ſecond Tueſday of February in every year, any thing in any other law contained, to the contrary thereof, in any wiſe notwithſtanding.

Erecting and deſcribing the bounds of Harpersfield.

XXIV. *And be it further enacted by the authority aforeſaid,* That all the tract of land in the county of Montgomery, between the Cookquago Branch of the Delaware River, and the branch of the Suſquehannah River called Adigitange, beginning at a Rock Maple Tree, marked on four ſides with a blaze and three notches, and with the letters and figures A C, 1768, ſtanding on a high point of land, at the ſouth ſide of a ſmall pond of water, called by the Indians Utſtayantho, from whence the ſaid branch of the Delaware, called by the Indians Cookquago iſſues, and running from thence north thirty degrees weſt to the ſaid Adigitange, and thence down the ſame to where the ſame falls into the Suſquehannah, and then down the Suſquehannah, to a brook called Ouel el ouit, thence on a direct line, to a brook called Canauſcutje, and then along the ſame to the ſaid river Delaware, and then up the ſame river to the place of beginning, ſhall be, and hereby is erected into a townſhip, by the name of Harpersfield; and that the freeholders and inhabitants of the ſaid townſhip, ſhall be, and hereby are empowered to hold town meetings, and chooſe ſuch town officers as the freeholders and inhabitants of any diſtrict, in the ſaid county of Montgomery, may do by law, and ſhall have the ſame powers and privileges. And that the firſt town meeting ſhall be held at the houſe of Alexander Harper, in Harpersfield, on the firſt Tueſday in June next.

Privileges of the freeholders.

Melancton Smith and Hendrick Wycoff to receive 281l. 12s. 8d. for ſervices.

XXV. *And be it further enacted by the authority aforeſaid,* That the Treaſurer of this State, iſſue to Melancton Smith and Hendrick Wykoff, a certificate for the ſum of two hundred and eighty one pounds twelve ſhillings and eight pence, bearing intereſt at five per cent. from the day on which their reſpective accounts as Deputy State Agents, under Udney Hay, were audited by the Auditor of the State, being the balance due to them, after deducting the ſum of three hundred and eighty eight pounds ſeventeen ſhillings and one penny, due from them as copartners to the State, for wheat purchaſed from Robert Hoffman, Treaſurer of Dutcheſs county, by the ſaid Melancton Smith, in the year one thouſand ſeven hundred and eighty two.

Treaſurer to iſſue a certificate to John Sayre, for 25l. 5s.

That the ſaid Treaſurer iſſue to John Sayre, a certificate for twenty five pounds five ſhillings, bearing an intereſt of five *per cent*, *per annum*, from the fifteenth day of October, one thouſand ſeven hundred and ſeventy ſeven, in payment for ſix hundred and ſix pounds weight of beef, at that time furniſhed by him to the regiment of militia commanded by Colonel John Hathorn, which was employed in guarding waggons, loaded with ammunition and military ſtores, belonging to the United States, from Newburgh to Eaſton, by the order of his Excellency the Governor, at the requeſt of the Commander in Chief of the army of the United States, and that the Treaſurer charge the ſame to the United States.

To the Corporation of New-York, for certain purpoſes, 152l. 18s. 5d.

That the ſaid Treaſurer pay to the Corporation of the city of New-York, for quit-rents on certain water lots, forfeited to the People of this State, by the reſpective attainders of Oliver Delancey and John Weatherhead, and the conviction of Waldron Blauw, and ſold by the Commiſſioners of Forfeitures for the ſouthern diſtrict, the ſum of one hundred and thirty two pounds eighteen ſhillings and five pence one farthing, which is due to the ſaid Corporation, after deducting the quit rents for ſeven years, during the war.

To iſſue certificates to the Treaſurer of Suffolk county, &c.

That the ſaid Treaſurer, iſſue certificates to the Treaſurer of Suffolk county for ſuch ſums, reduced by the ſcale of depreciation, bearing an intereſt of five *per cent*, *per annum*, from the eighth day of March, one thouſand ſeven hundred and ſeventy nine, as he has received from the Committees of Seabrook and Gilford in Connecticut, for cattle and ſheep, tranſported from the ſaid county, and by them ſold, and the Treaſurer of the ſaid county is hereby directed to pay the ſame to the reſpective perſons to whom ſuch cattle and ſheep did belong.

Governor allowed 100l. for holding a conference with the Indians.

XXVI. *And be it further enacted by the authority aforeſaid*, That his Excellency the Governor be, and he is hereby authoriſed and impowered to draw from the treaſury ſuch ſum or ſums of money as he may deem neceſſary, not exceeding the ſum of one thouſand pounds, to enable him to hold a conference with the Indians of the Six Nations, agreeable to concurrent reſolutions of the Legiſlature at their preſent meeting.

Public purchaſers may tender certificates in payment on former contracts.

XXVII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for any public officer who was employed during the late war, under the authority of the United States, and who now is or hereafter ſhall be proſecuted for ſervices performed at his requeſt, or articles by him purchaſed or taken for the United States, or this State, to tender in court the ſame public ſecurities of the United States, or of this State, as he has received or ſhall receive, on the ſettlement of his accounts, for ſuch ſervices performed, or articles purchaſed as aforeſaid, in full diſcharge of ſuch demand.

Sluman Wattles to have letters patent for certain lands.

XXVIII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Commiſſioners of the Land-Office, to grant to Sluman Wattles, ſuch letters patent for a certain proportion or part of a tract of land in Montgomery county, as John Harper, who has ſold and transferred his intereſt therein to the ſaid Sluman Wattles, would have been entitled to receive, in virtue of the determination of the ſaid Commiſſioners, if the ſum directed to be paid for the ſaid land, had been paid into the treaſury within the time limited by law, on the Treaſurer's certifying that ſuch ſum is depoſited with him by the ſaid Sluman Wattles, for the payment of the ſaid lands.

Auditor to allow Michael Connolly a Lieutenant's pay.

XXIX. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Auditor of the State, in ſettling the accounts of Michael Conolly, to allow him for his ſervices as Agent to the ſecond New-York regiment, in purſuance of the act of Congreſs of the twenty-ſeventh day of March, one thouſand ſeven hundred and eighty-five, the pay and rations of a Lieutenant, from the third day of November, one thouſand ſeven hundred and eighty-three, to the firſt day of May next, and to charge the ſame to the United States.

Reciting the caſe of John Ogilvie.

And whereas a certain farm in Dutcheſs county, forfeited by the attainder of Malcolm Morriſon, and conveyed by the Commiſſioners of Forfeitures to Philip Pelton, Benjamin Pelton, and Daniel Pelton, for the ſum of five hundred pounds, was, on the twenty-fifth day of March, one thouſand ſeven hundred and ſeventy-two, mortgaged by the ſaid Malcolm Morriſon, to John Ogilvie, deceaſed, for the payment of one hundred and eighty-three pounds fifteen ſhillings, with lawful intereſt: *Therefore*, XXX.

XXX. *Be it enacted by the authority aforeſaid,* That it ſhall and may be lawful for the Treaſurer, out of any monies which ſhall be in the treaſury unappropriated, to pay to the executors or adminiſtrators of the ſaid John Ogilvie, the ſaid principal ſum of one hundred and eighty-three pounds fifteen ſhillings, with the intereſt thereof, from the date of the ſaid mortgage, or ſo much thereof as ſhall appear to be due to the time the ſame ſhall be paid.

Treaſurer to pay the executors of ſaid Ogilvie, the amount of a certain mortgage.

Whereas, by an act of the late Colony, now State of New-York, paſſed the ſixth day of February, one thouſand ſeven hundred and ſeventy-three, entitled, "An act to raiſe fifteen hundred pounds, for draining the drowned lands in the precinct of Goſhen, in Orange county," certain proceedings in the ſaid act mentioned, were directed to be advertiſed in a public newſpaper, commonly called the New-York Gazette, and weekly Mercury. And whereas, at this time, there is not any paper with ſuch title or deſcription, printed in this State: *Therefore,*

Recital.

XXXI. *Be it enacted by the authority aforeſaid,* That all the proceedings in the ſaid act mentioned, may be publiſhed in any of the newſpapers printed in this State, for four weeks ſucceſſively, which ſhall be as valid, to all intents and purpoſes, as if the ſame had been publiſhed in the newſpaper firſt above mentioned.

Proceedings concerning certain drowned lands, how to be publiſhed.

XXXII. *And be it further enacted by the authority aforeſaid,* That it ſhall not be lawful for the Treaſurer of this State, or the Surveyor General of this State, or any of the Commiſſioners of Forfeitures, to receive in any payment, any certificates iſſued either by William Denning, Joſeph Bindon, Jonathan Burrel, John Pierce, Joſeph Pannel, or Edward Fox, unleſs ſuch certificates as aforeſaid, have been, or ſhall be iſſued, to a perſon or perſons, who were actually citizens of this State, at the time when the ſervices were performed, or articles furniſhed, for which ſuch certificates have been or ſhall be granted, and if ſuch certificates ſhall be for articles furniſhed, that ſuch articles were furniſhed within this State; and the Treaſurer of this State, and the Surveyor General of this State, and the Commiſſioners of Forfeitures, for the time being, are hereby reſpectively authorized and required, to examine upon oath or otherwiſe, any perſon who ſhall offer any of the ſaid certificates in payment, or any other perſon, in order to determine whether ſuch certificate or certificates are receivable according to the true intent and meaning of this act, or not.

Certain certificates not receivable in payments.

## CHAP. CIII.

AN ACT *ſupplementary to an Act, entitled, "An Act for running out and marking the juriſdiction Line, between this State and the Commonwealth of Pennſylvania, and for other Purpoſes therein mentioned."* Paſſed the 21ſt of April, 1787.

BE it enacted *by the People of the State of New-York, repreſented in Senate and Aſſembly, and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful for the perſon adminiſtering the government of this State, for the time being, by and with the advice of the Council of Appointment, to appoint and commiſſion under the great ſeal of this State, one or more Commiſſioners to continue the running out, marking and aſcertaining the line of juriſdiction between this State, and the Commonwealth of Pennſylvania, in the room of ſuch of the Commiſſioners appointed by virtue of the act, entitled, "An act for running out and marking the juriſdiction line between this State, and the Commonwealth of Pennſylvania," as ſhall have reſigned, declined the office, be ſick or unable to attend the ſame: And that the Commiſſioners ſo appointed, and to be appointed, or ſuch two, and not more than three of them, as the Commiſſioners of the Land-Office ſhall direct, are hereby authorized on the part of this State, to meet with ſuch perſon or perſons who may have been or ſhall be authorized and appointed on the part of the Commonwealth of Pennſylvania aforeſaid.

Commiſſioners to be appointed to continue running the line between this State and Pennſylvania.

And whereas by an act, entitled, "An act for the ſpeedy ſale of the unappropriated lands within this State, and for other purpoſes therein mentioned." The Com-

Recital.

miſſioners

Treaſurer to iſſue a certificate to John Sayre, for 25l. 5s.

That the ſaid Treaſurer iſſue to John Sayre, a certificate for twenty five pounds five ſhillings, bearing an intereſt of five *per cent*, *per annum*, from the fifteenth day of October, one thouſand ſeven hundred and ſeventy ſeven, in payment for ſix hundred and ſix pounds weight of beef, at that time furniſhed by him to the regiment of militia commanded by Colonel John Hathorn, which was employed in guarding waggons, loaded with ammunition and military ſtores, belonging to the United States, from Newburgh to Eaſton, by the order of his Excellency the Governor, at the requeſt of the Commander in Chief of the army of the United States, and that the Treaſurer charge the ſame to the United States.

To the Corporation of New-York, for certain purpoſes, 132l. 18s. 5d.

That the ſaid Treaſurer pay to the Corporation of the city of New-York, for quit-rents on certain water lots, forfeited to the People of this State, by the reſpective attainders of Oliver Delancey and John Weatherhead, and the conviction of Waldron Blauw, and ſold by the Commiſſioners of Forfeitures for the ſouthern diſtrict, the ſum of one hundred and thirty two pounds eighteen ſhillings and five pence one farthing, which is due to the ſaid Corporation, after deducting the quit rents for ſeven years, during the war.

To iſſue certificates to the Treaſurer of Suffolk county, &c.

That the ſaid Treaſurer, iſſue certificates to the Treaſurer of Suffolk county for ſuch ſums, reduced by the ſcale of depreciation, bearing an intereſt of five *per cent*, *per annum*, from the eighth day of March, one thouſand ſeven hundred and ſeventy nine, as he has received from the Committees of Seabrook and Gilford in Connecticut, for cattle and ſheep, tranſported from the ſaid county, and by them ſold, and the Treaſurer of the ſaid county is hereby directed to pay the ſame to the reſpective perſons to whom ſuch cattle and ſheep did belong.

Governor allowed 100l. for holding a conference with the Indians.

XXVI. *And be it further enacted by the authority aforeſaid*, That his Excellency the Governor be, and he is hereby authoriſed and impowered to draw from the treaſury ſuch ſum or ſums of money as he may deem neceſſary, not exceeding the ſum of one thouſand pounds, to enable him to hold a conference with the Indians of the Six Nations, agreeable to concurrent reſolutions of the Legiſlature at their preſent meeting.

Public purchaſers may tender certificates in payment on former contracts.

XXVII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for any public officer who was employed during the late war, under the authority of the United States, and who now is or hereafter ſhall be proſecuted for ſervices performed at his requeſt, or articles by him purchaſed or taken for the United States, or this State, to tender in court the ſame public ſecurities of the United States, or of this State, as he has received or ſhall receive, on the ſettlement of his accounts, for ſuch ſervices performed, or articles purchaſed as aforeſaid, in full diſcharge of ſuch demand.

Sluman Wattles to have letters patent for certain lands.

XXVIII. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Commiſſioners of the Land-Office, to grant to Sluman Wattles, ſuch letters patent for a certain proportion or part of a tract of land in Montgomery county, as John Harper, who has ſold and transferred his intereſt therein to the ſaid Sluman Wattles, would have been entitled to receive, in virtue of the determination of the ſaid Commiſſioners, if the ſum directed to be paid for the ſaid land, had been paid into the treaſury within the time limited by law, on the Treaſurer's certifying that ſuch ſum is depoſited with him by the ſaid Sluman Wattles, for the payment of the ſaid lands.

Auditor to allow Michael Connolly a Lieutenant's pay.

XXIX. *And be it further enacted by the authority aforeſaid*, That it ſhall and may be lawful for the Auditor of the State, in ſettling the accounts of Michael Conolly, to allow him for his ſervices as Agent to the ſecond New-York regiment, in purſuance of the act of Congreſs of the twenty-ſeventh day of March, one thouſand ſeven hundred and eighty-five, the pay and rations of a Lieutenant, from the third day of November, one thouſand ſeven hundred and eighty-three, to the firſt day of May next, and to charge the ſame to the United States.

Reciting the caſe of John Ogilvie.

And whereas a certain farm in Dutcheſs county, forfeited by the attainder of Malcolm Morriſon, and conveyed by the Commiſſioners of Forfeitures to Philip Pelton, Benjamin Pelton, and Daniel Pelton, for the ſum of five hundred pounds, was, on the twenty-fifth day of March, one thouſand ſeven hundred and ſeventy-two, mortgaged by the ſaid Malcolm Morriſon, to John Ogilvie, deceaſed, for the payment of one hundred and eighty-three pounds fifteen ſhillings, with lawful intereſt: *Therefore*, XXX.

XXX. *Be it enacted by the authority aforesaid,* That it shall and may be lawful for the Treasurer, out of any monies which shall be in the treasury unappropriated, to pay to the executors or administrators of the said John Ogilvie, the said principal sum of one hundred and eighty-three pounds fifteen shillings, with the interest thereof, from the date of the said mortgage, or so much thereof as shall appear to be due to the time the same shall be paid.

Treasurer to pay the executors of said Ogilvie, the amount of a certain mortgage.

Whereas, by an act of the late Colony, now State of New-York, passed the sixth day of February, one thousand seven hundred and seventy-three, entitled, "An act to raise fifteen hundred pounds, for draining the drowned lands in the precinct of Goshen, in Orange county," certain proceedings in the said act mentioned, were directed to be advertised in a public newspaper, commonly called the New-York Gazette, and weekly Mercury. And whereas, at this time, there is not any paper with such title or description, printed in this State: *Therefore,*

Recital.

XXXI. *Be it enacted by the authority aforesaid,* That all the proceedings in the said act mentioned, may be published in any of the newspapers printed in this State, for four weeks successively, which shall be as valid, to all intents and purposes, as if the same had been published in the newspaper first above mentioned.

Proceedings concerning certain drowned lands, how to be published.

XXXII. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for the Treasurer of this State, or the Surveyor General of this State, or any of the Commissioners of Forfeitures, to receive in any payment, any certificates issued either by William Denning, Joseph Bindon, Jonathan Burrel, John Pierce, Joseph Pannel, or Edward Fox, unless such certificates as aforesaid, have been, or shall be issued, to a person or persons, who were actually citizens of this State, at the time when the services were performed, or articles furnished, for which such certificates have been or shall be granted, and if such certificates shall be for articles furnished, that such articles were furnished within this State; and the Treasurer of this State, and the Surveyor General of this State, and the Commissioners of Forfeitures, for the time being, are hereby respectively authorized and required, to examine upon oath or otherwise, any person who shall offer any of the said certificates in payment, or any other person, in order to determine whether such certificate or certificates are receivable according to the true intent and meaning of this act, or not.

Certain certificates not receivable in payments.

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## CHAP. CIII.

AN ACT *supplementary to an Act, entitled, "An Act for running out and marking the jurisdiction Line, between this State and the Commonwealth of Pennsylvania, and for other Purposes therein mentioned."* Passed the 21st of April, 1787.

BE it enacted *by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the person administering the government of this State, for the time being, by and with the advice of the Council of Appointment, to appoint and commission under the great seal of this State, one or more Commissioners to continue the running out, marking and ascertaining the line of jurisdiction between this State, and the Commonwealth of Pennsylvania, in the room of such of the Commissioners appointed by virtue of the act, entitled, "An act for running out and marking the jurisdiction line between this State, and the Commonwealth of Pennsylvania," as shall have resigned, declined the office, be sick or unable to attend the same: And that the Commissioners so appointed, and to be appointed, or such two, and not more than three of them, as the Commissioners of the Land-Office shall direct, are hereby authorized on the part of this State, to meet with such person or persons who may have been or shall be authorized and appointed on the part of the Commonwealth of Pennsylvania aforesaid.

Commissioners to be appointed to continue running the line between this State and Pennsylvania.

And whereas by an act, entitled, "An act for the speedy sale of the unappropriated lands within this State, and for other purposes therein mentioned." The Commissioners

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miſſioners of the Land-Office are authorized whenever they think proper, to direct the Surveyor General to proceed to the ſale of lands without making a previous actual ſurvey thereof. And whereas difficulties may ariſe to the proprietors of ſuch lands by having them ſurveyed by different perſons: For prevention whereof:

Clauſe for preventing diſputes.

II. *Be it further enacted by the authority aforeſaid*, That before the proprietors of any lands hereafter to be ſold, without being previouſly ſurveyed, proceed to divide or ſettle the ſame, they ſhall make application to the Surveyor General in writing, to run the out lines thereof. And it is hereby made the duty of the ſaid Surveyor General to cauſe the ſame to be done as ſoon as may be, after ſuch application ſhall have been made: And further, that in every ſurvey hereafter to be performed by the Surveyor General, by virtue of his office, he ſhall give notice to the proprietors, when he will commence the ſame: And if ſuch proprietors ſhall attend or cauſe ſome perſon to attend at ſuch time with a flag bearer, two markers, a ſufficient quantity of proviſions for the purpoſe, and the means of tranſporting it as occaſion ſhall require, the ſaid Surveyor General ſhall cauſe ſuch ſurvey to be made, and be allowed to charge ſuch proprietors for the ſervice of a Surveyor, at the rate of twenty ſhillings per day, and for two chainbearers to be furniſhed by him, four ſhillings per day each. And further, that the thirtieth ſection of the ſaid act, ſhall be and hereby is repealed.

End of the LAWS of the TENTH SESSION.

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